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HEARING

BEFORE THE

COMMITTEE ON PUBLIC WORKS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 364

RELATING TO CERTAIN FOREST TIMBER SALE
CONTRACTS INVOLVING ROAD CONSTRUCTION



MAY 19, 1975

SERIAL NO. 94-H16

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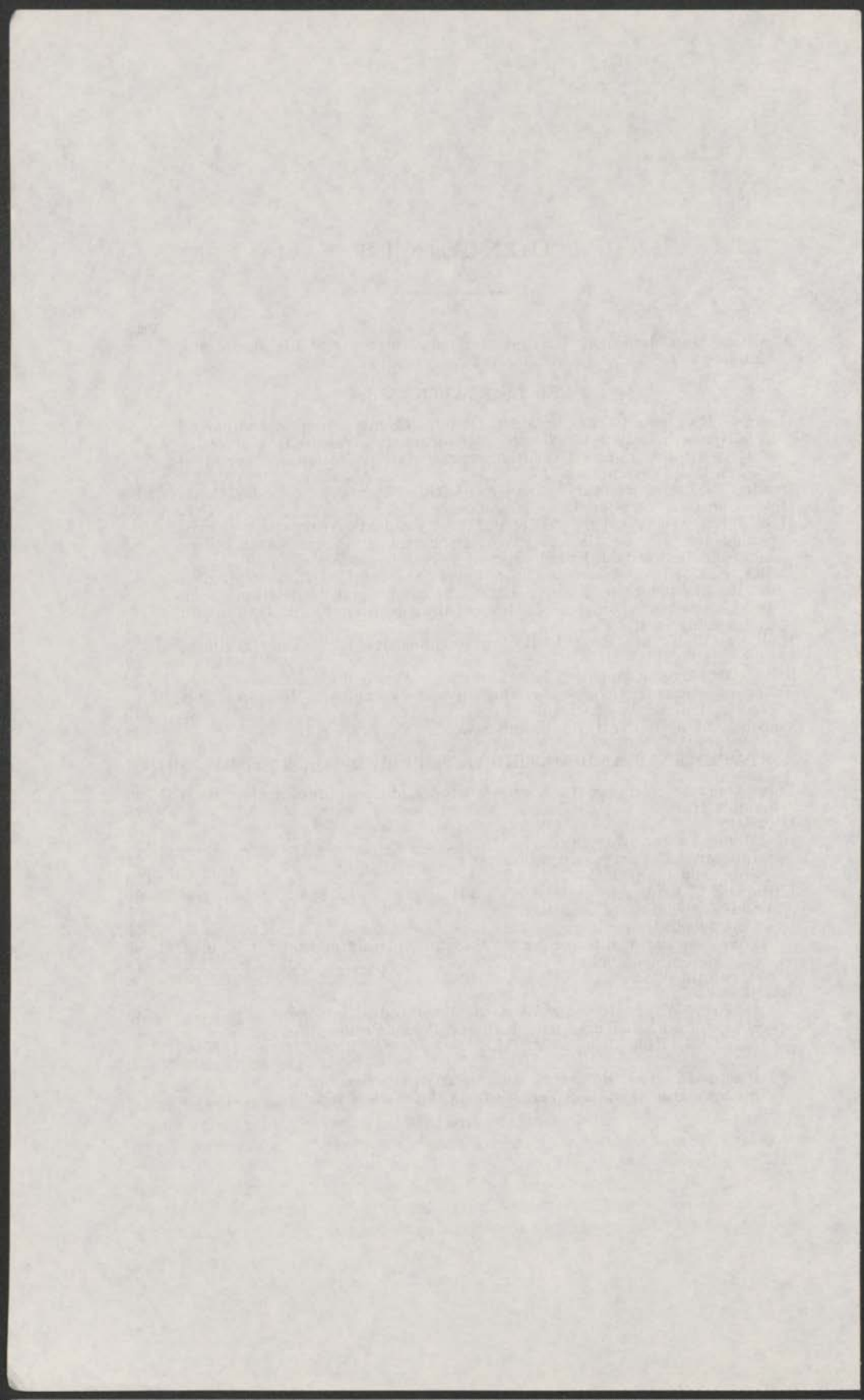
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TRANSFERABLE FOREST ACCESS ROAD CREDITS

MONDAY, MAY 19, 1975

U.S. SENATE,
COMMITTEE ON PUBLIC WORKS,
Washington, D.C.

The committee met at 10 a.m., pursuant to call, in room 1114, Dirksen Senate Office Building, Hon. James A. McClure presiding.

Present: Senators Gravel, Hart, Stafford, McClure, and Domenici.

OPENING STATEMENT OF HON. JAMES A. McCLURE, U.S. SENATOR FROM THE STATE OF IDAHO

Senator McCLURE. The committee will come to order.

Each year the Forest Service sells about 11 billion board feet of timber from the national forest system to purchasers who then manufacture the timber into a variety of products for homebuilding and other construction.

The present slump in homebuilding has created the situation where investments made by timber purchasers in road construction with the expectation that housing starts continue at the 2 million start level will continue the lag in the economic pipeline for an extended period of time.

Forest access roads are primarily financed by timber purchaser investment and then recovered by the purchasers through a system of purchaser credits when the timber is removed for sale. Normally, a timber operator has several sales on which he is operating in various stages of development. His heaviest investment is in the initial road construction before he can remove timber.

S. 364 would permit a timber operator to transfer earned but unused credits from a sale on which he is not yet able to remove timber to another sale on the same national forest where roads are already completed.

The urgency for considering S. 364 comes about because of the current slump in the housing and construction market. The timber industry was asked to prepare for our lumber market associated with housing starts at the rate of 2 million per year.

Timber sales and road construction were based on that level. It is obvious that with the precipitous drop in housing starts the large investment in roadbuilding cannot be recovered as expected from lumber sales.

Passage of S. 364 would not only assist operators who have reached borrowing limits and are faced with bankruptcy, but it would free needed capital for operating expenses and payroll, thus providing an

immediate boost for jobs in an industry with unemployment rates above 20 percent, the highest unemployment rates outside the auto industry.

It would also have the effect of some reduced pressure on lumber prices which should provide some assistance to the depressed housing market. But allowing the timely transfer of earned but unused purchaser road credits between sales on the same national forest would provide an incentive for earlier construction starts.

This means the new road would have a longer time to set up and become stable prior to use. The operator could recover his investment factor for future business use and plan his road construction schedule with emphasis on a full seasoning of the road without the urgency of having funds tied up for a longer period of time.

I am most appreciative for Chairman Randolph's courtesy in scheduling early hearings on this important bill.

At this point in the record, I would like to include the statements of Senator Montoya, Senator Stevens, and Senator Packwood.

[The statements referred to and the bill S. 364 follow:]

STATEMENT OF HON. JOSEPH M. MONTOYA, U.S. SENATOR FROM THE STATE OF
NEW MEXICO

Mr. Chairman, as a cosponsor of S. 364 I am pleased to have this opportunity to present testimony concerning its merits. Being a member of the Public Works Committee I want to thank you for holding early hearings on this bill, and let me take this opportunity to congratulate Senator McClure for his leadership on this matter.

S. 364, which permits the transfer of earned credits for purchaser road construction on United States Forest Service Timber Sale contracts is, I believe, a timely measure. I know that all of us are aware that the depressed condition of the construction industry has resulted in severe economic problems for the lumber industry. It is important to stress that what is proposed in S. 364 is not any type of government aid program. This bill in my view only provides for a more prompt payment system for those who perform work on federal forest lands.

In the current economic situation it has become increasingly difficult for those in the lumber industry to expend large amounts of money on the construction of roads which will not be repaid until several years in the future. Under the present system timber purchasers construct the necessary roads several years in advance of actual logging operation but cannot receive credit for this outlay until cutting begins on the timber sale in question. This procedure results in the government deriving significant benefit from these roads for many years at no cost, and without a requirement that compensation be paid for the use of this money during those first years when the forest service and in some cases the general public—is benefiting from the existence of these roads.

Mr. Chairman, I note with pleasure that this bill has received solid industry support. Also I am proud that representatives from Duke City Lumber Company in Albuquerque, New Mexico are participating in the industry panel testifying before this Committee.

Some argue that adoption of S. 364 would result in severe financial losses to those counties which receive twenty-five percent of these National Forest cash receipts. I do not agree with this assertion. While there may be a slight delay in the first year, I am convinced that increased employment opportunities and continued economic activity in the areas where lumber companies will be able to continue operations because of greater working capital being available, will offset any temporary losses.

Arguments that pretend alarm at the enormous drain on the federal treasury are not persuasive. It seems to me that at this time it is more important to assure the continued full operation of this vital industry than to retain a relatively small amount of money in the federal treasury for a few years longer. Fiscal responsibility is important, and I have long been a strong advocate of moderation in this area, but rejection of S. 364 will not effect a real saving to our economy. In fact by forcing lumber companies to cut-back operations in certain areas,

retention of the present system could have adverse consequences by increasing already high unemployment in New Mexico and other timber producing states. This committee has already been presented with hard evidence from Duke City Lumber Company of New Mexico which illustrates the effect I outlined above.

Mr. Chairman, I think this bill offers a just and fair solution to a difficult problem and I urge that this measure be sent to the floor at the earliest possible time. I am hopeful that after Committee approval the Senate will act favorably on this matter.

STATEMENT OF HON. TED STEVENS, U.S. SENATOR FROM THE STATE OF ALASKA

Mr. Chairman, it is my privilege today to submit testimony in strong support of S. 364, a bill which I co-sponsored with Senator McClure.

The ability to transfer unused purchaser credits would be of great importance to the Alaskan timber producer. Nearly all the timber purchased in Alaska is from National Forest lands, which comprise over 20 million acres.

Road building is by far the highest cost element in Alaska's total logging cost picture. Most of the Forest Service timber purchase contracts require the logger to build roads well ahead of logging operations. Most are built ahead at least one year. For example, in a sale purchased in the Spring, road construction must start and be completed by Winter if the purchaser is going to be able to log the following year.

Current logging road costs in Alaska are running nearly \$85,000 per mile. Because roads must be completed on nearly all sales before logging can begin, the logger must expend considerable sums of money before he can hope to receive purchaser credits. Even when he does start to receive purchaser credits it is only commensurate with his log production.

Let me provide an example of what this means. On the average, a 30 million board feet timber sale in Southeast Alaska requires the construction of approximately fifteen miles of road. At a cost of \$85,000 per mile, road costs for this sale would be approximately \$1,275,000. In Southeast Alaska the average yearly cutting rate on a sale this size is 20 million board feet. Therefore it would take 1½ years to log the sale, and this coupled with the year required to put in roads means the entire \$1,275,000 invested by the logger for roads would not come back in purchaser credits until 2½ years after the purchase of the sale.

Simply put, this bill would allow the timber purchaser to receive credits as a road is constructed, provided he holds other National Forest timber sales. This would mean that the timber purchaser would no longer have to carry road costs as long as he is logging other National Forest timber where purchaser credits could be applied.

At this point, I would like to stress that the Tongass National Forest in Alaska, the country's largest National Forest, is broken into three parts for administrative purposes. For this bill to be effective in Southeast Alaska the logger must have the ability to transfer credits between the North, Middle, and South Tongass. As I understand the bill, such transfers would be allowed.

Mr. Chairman, this bill has the strong support of the Alaskan timber industry. Recent declines in the world timber market have hit the Alaskan industry very hard. In addition, the Forest Service has recently increased stumpage values for Forest Service timber between \$60 and \$100 per thousand board feet, nearly a 1,000 percent increase. The ability to transfer purchaser road credits would be of considerable help to this already beleaguered industry, which I might add is Alaska's largest year-round employer.

I strongly urge the Committee's approval of this bill.

Mr. Chairman, I have attached several letters I have received from Alaskan loggers strongly supporting this bill. I ask that they be included in the hearing record.

Thank you.

[Telegram]

Senator TED STEVENS,
Capitol Hill, Washington, D.C.

Reference S. 394 at present we have only one, all USFS timber sale, but we expect to bid on more sales and this bill should allow us a greater flexibility in money management, thereby lowering our cost. We would urge the committee pass S. 394.

JOHN DALY,
Kodiak Lumber Mills, Inc.

ALASKA LUMBER & PULP CO., INC.,
Sitka, Alaska, May 13, 1975.

Hon. TED STEVENS,
U.S. Senator, Washington, D.C.

DEAR TED: Passage of Senate Bill S364 is extremely important to Southeast Alaska Timber Industry at this time.

Escalating stumpage values and transportation system costs require larger capital expenditures to be tied up each year. Logging in Southeast Alaska necessitates construction of road systems at least a year in advance of logging. To Alaska Lumber & Pulp Co. and its affiliates this means roughly ten million dollars investment to be carried over each year.

On Alaska Lumber & Pulp Co.'s long term timber sale the carry-over of purchaser credits will not be utilized until after June 30, 1976. These credits appear to be approximately one million dollars.

Passage of S364 would serve to implement critical company cash flows at a time when in plant environmental considerations threaten to tie up millions in additional capital.

Very truly yours,

J. A. RYNEARSON,
Vice President, Woods Division.

ALASKA LOGGERS ASSOCIATION, INC.,
Ketchikan, Alaska, February 12, 1975.

Hon. TED STEVENS,
U.S. Senate, Washington, D.C.

DEAR SENATOR STEVENS: Thanks for your letter of February 4 concerning road credits between timber sales, as proposed by Senator James McClure of Idaho.

You will have received a letter from George Woodbury, of Ketchikan Pulp Company, which outlines our position on the proposal. We urge you to support the legislation.

Sincerely,

DONALD A. BELL,
General Manager.

ALASKA LUMBER & PULP CO., INC.,
Sitka, Alaska, February 14, 1975.

Hon. TED STEVENS,
U.S. Senator, U.S. Senate, Committee on Commerce, Washington, D.C.

DEAR TED: Until recently purchaser road credits meant very little to our operations in Southeast Alaska. However, we are now operating on numerous timber sales that allow purchasers credit for road construction.

We recently completed a five year reappraisal on our Pacific Northern Timber Company's long term timber sale in which we agreed to the purchaser credit concept. We are now negotiating with the forest service on Alaska Lumber & Pulp Company's present five year long term reappraisal. At this time I feel certain that we will perhaps also agree to incorporate purchasers credit in this contract.

It is my feeling, especially here in Alaska where we have been forced to over-build access roads that those credits accruing above and beyond stumpage payments should be transferable to other sales. I therefore urge you to give your full support to Senator McClure's bill.

If you should require further information, please feel free to call on this office at any time.

Very truly yours,

JAMES A. RYNEARSON,
Woods Manager.

KETCHIKAN PULP CO.,
Ketchikan, Alaska, February 12, 1975.

Hon. TED STEVENS,
U.S. Senate, Washington, D.C.

DEAR TED: Don Finney is out of town until later this month and in order to give you a quick reply on Senator McClure's Bill dealing with transferable purchaser credits I will convey my thoughts.

The ability to transfer unused credits is especially important to the Alaska timber purchaser. Roadbuilding is the highest cost element in our total logging cost picture. In order to maintain an orderly operation it is essential to build roads well ahead of logging operations, preferably one year. This, in dollars, means that if a thirty million board foot timber sale is purchased about fifteen miles of road must be constructed to harvest the timber. If the sale is purchased in the Spring, road construction must start and hopefully be complete by Winter. At present, logging roads are running about \$85,000/mile or, in this case, about \$1,275,000.00. The purchaser would not start logging until the following year, one year after the purchase date. This means that he will not receive purchaser credits for the first year he holds the sale and then the credits will come to him at a rate commensurate with his log production. Depending upon the production schedule, which would average around 20 MMBF a year, the entire \$1,275,000.00 would not come back to the purchaser in purchaser credits until 2½ years after the purchase of the sale.

Senator McClure's bill would allow the purchaser to receive credits as road is constructed, provided he holds other National Forest Timber Sales. This would be a great advantage to anyone purchasing timber in Alaska, in that road costs would no longer have to be carried by the purchaser as long as he was logging other National Forest timber where the purchaser credits could be applied.

As you know, the Tongass National Forest has been broken into three parts for administrative purposes; the North, Middle and South Tongass. In order for Senator McClure's bill to be effective in S.E. Alaska, we must have the ability to transfer credits between the North, Middle and South Tongass.

I would encourage you to do all you can to support Senator McClure's bill as it would be a great help to the Alaska timber purchaser.

Very truly yours,

GEORGE WOODBURY,
Administrative Forester.

STATEMENT OF HON. BOB PACKWOOD, U.S. SENATOR FROM THE STATE
OF OREGON

Mr. Chairman, on behalf of the people of the Oregon timber industry, I wish to thank the committee for allowing me to appear before you and express my views in support of Senator McClure's bill, S. 364, which I cosponsored. This bill permits purchasers of national forest timber to transfer earned but unused purchaser credits for road construction, providing, however, these timber sales are in the same national forest. These credits which will be deducted from the timber sales price will provide additional cash flow which is so necessary for the timber industry in its current depressed condition. This essential assistance to the industry will serve to stimulate it as well as to help sustain production so as to ensure job security as well as to create additional jobs. Both of these factors assure the country a steady and predictable supply of wood products which is so necessary if we intend to maintain a strong housing industry, the goal of Congress for many years. A steady supply of timber serves to stabilize prices in the wood products industry as well as the homebuilding industry. This stability in both the prices and the industry benefits the consumer.

Furthermore, while it is little understood by the general public, many of the forest roads that are enjoyed by recreationists on our national forest system are built as a result of roads constructed for the purpose of harvesting the timber sales. Many of these roads are purchaser constructed. Timber sale contracts provide for roads to be substantially completed before timber transport is permitted. This, of course, results in large amounts of capital tied up for long periods of time.

For instance, in my State of Oregon alone, it has been estimated by the National Forest Service that the earned road credits for fiscal year July 1, 1975-1978 will be \$67,812,000.

This legislation will permit forest purchasers who are building roads as part of timber sale contractual requirements to increase their cash flow capability with no cost to the Government. Also, providing more cash flow should actually help the consumer ultimately, for this bill will free borrowed money and thus result in less interest costs to be passed along to the consumer.

This very beneficial legislation is supported by both large and small businesses in the timber industry. I urge prompt action on this important legislation.

IN THE SENATE OF THE UNITED STATES

JANUARY 23, 1975

Mr. McCLURE introduced the following bill; which was read twice and referred to the Committee on Public Works

A BILL

Relating to certain Forest Service timber sale contracts involving road construction.

- 1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 4 of the Act of October 13, 1964 (78 Stat.
4 1089), is amended by adding at the end thereof a new
5 sentence as follows: "The Secretary shall include in each
6 Forest Service timber sale contract involving road construc-
7 tion a provision for purchaser credit earned by road con-
8 struction but unused thereunder to be transferred to meet
9 charges for stumpage under other such contracts held by
10 the timber purchaser on the same National Forest, except

1 that cash payment for timber cut under a contract from
2 which purchaser credits are transferred cannot be less than
3 the sum of (1) any such credits transferred, and (2) timber
4 value at base rates.”.

5 SEC. 2. The amendment made by the first section of
6 this Act shall be effective with respect to contracts in effect
7 on the date of enactment of this Act and contracts entered
8 into on and after such date.

Senator McCLURE. We have a long list of witnesses headed by Rexford A. Resler, Associate Chief, Forest Service, USDA.

Mr. Resler, would you and your team come forward and if you would identify the others for the record.

STATEMENT OF REXFORD A. RESLER, ASSOCIATE CHIEF, FOREST SERVICE, USDA, ACCOMPANIED BY R. M. PETERSON, DEPUTY CHIEF, PROGRAMS AND LEGISLATION; JACK TODD, ASSISTANT DIRECTOR OF TIMBER MANAGEMENT; FRANK HAMMOND, ENGINEERING STAFF

Mr. RESLER. Thank you, Mr. Chairman.

Senator McCLURE. Do you have any statement, Senator Stafford?

Senator STAFFORD. I have no statement. I am ready to hear the witnesses.

Senator McCLURE. Senator Hart?

Senator HART. No, thank you.

Mr. RESLER. Good morning, Mr. Chairman, members of the committee. My name is Rex Resler. I have with me R. M. Peterson on my right, who is Deputy Chief for Programs and Legislation. On my left is Jack Todd, Assistant Director of Timber Management for the Forest Service. On his left is Mr. Frank Hammond, of the of the engineering staff in Washington.

I want to thank you and the committee for this opportunity to present the views of the Department of Agriculture on Senate bill 364, a bill that would amend section 4 of the act of October 13, 1964.

Section 4 of the act of October 1964 provides that the financing of forest development roads within lands administered by the Forest Service may be accomplished through four methods. One of the methods commonly used is to authorize purchasers of national forest timber to build the roads needed to remove timber from the areas where it is harvested.

Under this method, timber is appraised and offered for sale as if the necessary roads had already been constructed. As road construction proceeds, the timber purchase is credited for the estimated cost of such work up to a maximum amount stated in the timber sale contract.

As timber harvesting proceeds, accrued credit is applied against the charge for the timber in excess of the stated base rates.

Since road construction generally precedes timber removal, and the initial rate of removal may not be sufficient to currently amortize costs, accrued but unused credit may accumulate. The intent of Senate bill 364 is to permit the unused credit to be applied toward charges for timber under the other contracts held by the same purchaser in the same national forest.

Legislation would be required to permit this because such credit transfers have been found by the Comptroller General to be without statutory authority (51 Comp. Gen. 826).

The amendment contained in section 1 of S. 364 would require the Secretary of Agriculture to include in each timber sale contract involving road construction a provision permitting the transfer of unused credit earned by road construction.

Section 2 of the bill provides that the amendment shall be effective with respect to both existing and future contracts. The bill would therefore require the Secretary to modify all existing timber sale contracts involving road construction.

We believe that a number of undesirable effects would result from the enactment of this bill and therefore recommend against its enactment.

If unused credits are authorized to be transferred as proposed by the bill, there is certain to be a sharp reduction in national forest receipts during the first year following enactment and noticeable reductions will likely occur during the second and third year. Such reductions would occur because many purchasers will have unused credits from existing contracts available for immediate transfer, to be used in lieu of cash, to meet charges for timber on other contracts.

We estimate that \$160 million of credit would be available under existing contracts and \$9 million of credit would be available under new contracts for transfer during fiscal year 1976. Consequently, if S. 364 were enacted by July 1, 1975, it could have the effect of reducing fiscal year 1976 receipts by \$169 million.

Since 25 percent of these receipts are payable to the States for distribution to the counties in which the national forests are located, the amount that would be received by the counties could be reduced by \$42 million. This \$42 million represents approximately 35 percent of the total payments to the States from national forest receipts collected in fiscal year 1974.

Reductions of this magnitude could have a disruptive effect on the budgetary considerations, particularly with respect to counties. Ultimately, the cash payments that were deferred would have to be paid but a lag period of several years would exist until such time as the level of timber purchaser road construction within any given national forest was significantly reduced.

Moreover, the timber portion of the benefits from the credit transfers would flow to those timber purchasers with the most and largest sales

on the same national forests. Such purchasers could then be in an economically advantageous position in bidding on new timber sale contracts over purchasers with one or few sales and over certain purchasers who bid on sales in more than one national forest.

The modification of existing contracts as required by the bill would be contrary to the basic contractual principle that both sides should be bound by the condition for which they freely negotiated. Altering the contracts through legislation would introduce an element of uncertainty into the contractual relationship between the United States and timber purchasers. This might establish a precedent that would encourage purchasers to seek relief from other contract conditions to which they agreed in competitive bidding.

Finally, the establishment of a link between two or more contracts where the fiscal status of one is connected with the fiscal status of the other could cause various technical problems in contract administration.

This completes my prepared statement, Mr. Chairman. My compatriots and I will be happy to respond to any questions you may have. I would say that our report will be up very shortly. It is in the process of being cleared now.

Senator McCLURE. Thank you very much for your statement, Mr. Resler.

I would have preferred it come down on the other side of the question, which my preliminary contacts with the Forest Service have indicated that it would. I have a couple of questions, one which is rather obvious.

You concluded by saying there are some other problems. What are those other problems? Your next to the last paragraph says "various unidentified technical problems."

Mr. RESLER. Mr. Chairman, there are a number of problems I can visualize. We don't want to make too much of an issue of them. We will be glad to discuss elements of them. I would like to say at the outset, however, that in our earliest considerations of this kind of a legislative proposal there were some attractive features to the idea.

We recognize that anything that tends to free up working capital generally, and in these times in particular, has some very favorable aspects. But our concern is with the general nature of the legislation and its direction that it be applied to all contracts and it, therefore, results in a series of problems, some of which we mentioned, that can lead to unforeseen problems later on.

I would like to ask Mr. Todd, if I may, to elaborate on one or two additional points of a technical nature to which we have referred.

Senator McCLURE. Very well. Mr. Todd.

Mr. TODD. One of the immediate problems would be the question of how we would handle the transfers in what we call a timber sale account in which cash payments and earned purchaser credit are accumulated in each contract.

The regions that do the most business have this automated on a computer. The transfer amounts would have to be handled by hand for some period of time until we can figure out how to reprogram.

That perhaps is not too serious. Some other problems that might arise and are purely speculative is what would happen in the event of contract default and contracts from which transfer of credit had been made or to which transfer of credit had been made. It is a little hard

to visualize exactly where we would stand with respect to collection of damages. We have anticipated it would be even more difficult to explain if litigation were required to resolve how much a particular purchaser owed us as a result of default.

Perhaps there are ways around all of these problems. It is a little hard to tell what might happen.

Senator McCLURE. With respect to a default on a contract, what would happen now if there was a default on a contract?

Mr. TODD. Where the contract has expired and the road construction which has been accomplished, credits earned; and the remaining road to be constructed is tied to the timber on that contract, the computation of damages is relatively simple.

Senator McCLURE. You are confining the difficulty then to the question of damages?

Mr. TODD. That is one of them; yes, in the event of default.

Senator McCLURE. Are there other difficulties in the event of a default?

Mr. TODD. I can't anticipate any except the question of damages.

Senator McCLURE. You establish damage now by the simple mathematical computation, I assume. Is that correct?

Mr. TODD. Basically, the difference between what the purchaser had agreed to pay and what the current value would be at the time of default.

Senator McCLURE. If you transfer credits from one sale to another, wouldn't you just simply aggregate the mathematical item in the two sales?

Mr. TODD. I think that is what you would have to do.

Senator McCLURE. That doesn't seem to me to be a very difficult process.

Mr. TODD. Perhaps it wouldn't.

Senator McCLURE. I think I could do it with a sheet of paper and pencil, let alone the computer.

Mr. RESLER. Mr. Chairman, it raises an interesting question of what might happen when a default would occur and all of a series of sales were tied together. Obviously, they can become a legal entity under this arrangement, or it would appear to be so, so that the assets on one covered the defaults on another.

One of our problems is that we have not had an opportunity yet to explore all the ramifications of this bill. It could have some serious effects. I think I would say that our most serious concern at the outset is with the effect on the receipts not only to the Federal Treasury but also its effect on the disbursement to counties. Second, there is a question of whether or not it would upset the competitive relationships or favor one group of purchasers over another. You can speculate that it would have such an effect.

I am sure there will be testimony here this morning that would suggest otherwise. That may well be, but our crystal ball is not sufficiently clear to fully elaborate on that point.

Senator McCLURE. If the counties themselves are in favor of the bill—I don't know what their testimony is going to be, but if they should be in favor of the bill in spite of the reduction in current cash flow to the counties, if that should be the result—would that alter the position of the Forest Service with respect to the concern about the counties?

Mr. RESLER. It would certainly have an effect, Mr. Chairman. Under those circumstances, we certainly would be agreeable to considering it further within the administration. But we have not had the time to explore the ramifications fully with the counties and it is one of our standing concerns.

Senator McCLURE. The question with respect to favoring one segment of the industry over another, that seems to me from the contacts I have had with industries discussing this legislation and since it was introduced that virtually all segments of industry are in favor of it.

Yet, you indicate that some would be disadvantaged. Are you seeing something that they don't see?

Mr. RESLER. I am sure that every segment of industry would see some direct advantages in terms of the freeing of the working capital. But if you get to contemplating what could develop over time, I think one can visualize some ways in which it would be possible to generate interest in assuring that more than one sale is acquired on a national forest in order to be able to take advantage of these purchaser credit transfers.

You have to deal in an area of speculation, Mr. Chairman, and one that is nebulous. We certainly grant that. But there are some opportunities for changing the flow of capital. Part of this is very desirable. There are some ways in which it would appear to us at least that this flow of credit could have an impact on various sizes of purchasers.

I wouldn't want to make more of that issue than what we have stated here at this time.

Senator McCLURE. You have put heavy emphasis in your statement and in your informal remarks on the loss of receipts to the Treasury that might occur if this bill were passed.

Is there a reason why that would occur if the timber harvest operations occurred on one sale instead of the other? Would we suppose that there are more earned but unused credits that would be used more rapidly against timber harvest, regardless of which sale they occurred on? I assume that is the basis for that statement.

Mr. RESLER. Mr. Chairman, I must have misspoken myself if I said loss indefinitely.

Senator McCLURE. I meant loss in the short term.

Mr. RESLER. It would amount to a deferral. It really amounts to a deferral to some out-year when those values would be recovered in the Federal Treasury.

Senator McCLURE. That presupposes that the gross timber operation would recover from these sales at some future year, the assets which would be removed on that sale in future years.

Mr. RESLER. Yes, sir.

Senator McCLURE. So you are referring primarily to this fiscal year?

Mr. RESLER. Yes. It would have an effect over about a 3-year period during which it would impact receipts, but then it would build back up to about a normal state.

Senator McCLURE. What is the normal length of timber contract?

Mr. RESLER. About 4 years.

Senator McCLURE. Those are contractual terms?

Mr. RESLER. Yes.

Senator McCLURE. Are they subject to extension?

Mr. RESLER. In only the most extraordinary circumstances. I would say no. They are not ordinarily subject to extension.

Senator McCLURE. They have been extended.

Mr. RESLER. Yes, they have been, but on a very limited basis.

Senator McCLURE. I understand that statement as intended to be heard by the industry. But, as a matter of fact, they do occur, if reasons are shown and sufficient for the extension. As a matter of fact, in periods of exceptional economic activity you would expect that perhaps extensions might be granted.

I am not going to ask you to answer that in the affirmative in order to encourage all of these fellows to ask for extensions, but if economic activity, downturn, the housing starts turn down, the lumber isn't there, you are not going to force them to go ahead and produce lumber for which there is no market.

Mr. RESLER. Mr. Chairman, I am sure the members of the industry understand our extension policy very well, as I am sure you do.

Senator McCLURE. I don't want to expand on that extension policy, but I do want to get on the record that it is possible for extensions beyond the average 4-year-term contracts.

Mr. RESLER. Yes. When certain conditions are met, there are conditions under which they can qualify.

Senator McCLURE. It isn't my intention to, by asking these questions, cause any problem with respect to the flow of requests from the industry for extensions. Isn't it also possible that the transfer of unused credits from one sale to another might accelerate the activities on another sale?

Mr. RESLER. Yes. It could have that effect. I think one can readily visualize that as long as purchaser credits can be transferred, they may be used in any kind of capital venture. It could go toward support of accelerated construction, as was alluded to in your opening statement. It obviously does one thing; it makes working capital free for whatever use the purchaser elects to place it.

Senator McCLURE. The real problem for the counties comes not under the provisions of this bill, but under the growing practice of the Forest Service to require more and more road construction out of the proceeds of the sale, does it not?

Mr. RESLER. Yes, Mr. Chairman, it does. In order to maintain even a current level of sale offerings, which I am sure you know is almost 2 billion board feet under the allowable harvest level, we must, of necessity, put more burden on the timber sale purchasers in the absence of being able to adequately fund conventional contract construction.

Senator McCLURE. I don't want to get very extensively into the peripheral issue of the adequacy of the direct fund appropriations for the roadbuilding activities within our national forests.

The reason for the transfer from appropriated funds to purchaser charge has been the failure of the Congress to adequately appropriate for the construction of the roads. Is that not correct?

Mr. RESLER. That is correct, sir.

Senator McCLURE. There would be a much lower level of charges to the timber purchaser if Congress had been adequately appropriating for that road network through direct appropriated funds.

Mr. RESLER. If I might change the assignment of responsibility, I would say that if more moneys could be made available for whatever reason, we would prefer to have more roads constructed by appropriated funds, by contract. There would continue to be a substantial amount of maybe somewhere on the order of one-half of all the road system continue to be constructed by the timber purchaser. But there would be a different class of roads.

Senator McCLURE. Would those roads be used by the general public for purposes other than the removal of the timber harvested?

Mr. RESLER. Yes.

Senator McCLURE. To the extent that they are used by the general public for purposes other than the removal of the timber then the timber purchaser is building roads which have a public purpose and a public benefit.

Mr. RESLER. Very definitely.

Senator McCLURE. When the Forest Service was originally established, a commitment was made with the counties of this country that 25 percent of the receipts would go to the counties and that has been greatly reduced as we have transferred more and more of the costs of management to the purchaser.

Mr. RESLER. Yes, sir. That is correct. That has that effect.

Senator McCLURE. As I said, I don't want to go into that aspect too far but the concern for the counties which you expressed could have been more adequately met by the Congress of the United States by adequately appropriating for the Forest Service for the management funds that they require and the management of the lands under their responsibility.

Mr. RESLER. It has that effect, Mr. Chairman. I would add, however, over time—I am sure you are well aware—that the value of timber has gone up so sharply that in terms of total receipts it has been steadily climbing.

Therefore, the contributions back to the counties have been—

Senator McCLURE. It is a way of saying since they have got more money, you are free to take more of it.

Mr. RESLER. No.

Senator McCLURE. We don't do that to other people who have increased asset value. I don't know why the counties should bear that. It may justify it and make your conscience feel better, but it doesn't make mine feel better.

Senator Hart, I have some further questions, but if you would like to go ahead.

Senator HART. Thank you, Mr. Chairman.

Mr. Resler, in ballpark terms without specific numbers, unless you want to provide them later, could you give us an idea of the number of companies doing business in the national forests and any kind of a breakdown in terms of volume that they do? Are we talking here about hundreds of companies?

Mr. RESLER. Senator Hart, we are talking about multiple hundreds. I wouldn't say in the thousands, but we do have somewhere in the order of 20,000 timber sale offerings a year in excess of \$300 in value and, of course, many purchasers have from 2 to 20, somewhere in that range, and some more possibly, outstanding contracts at any one time.

Senator HART. Would you care to characterize the size of these questions in relevant terms? Are there dozens of large ones and then hundreds of small ones?

Mr. RESLER. Yes, you could say that; all the way from the very largest to the very small one- and two-man operations.

Senator HART. But there is a pyramid in terms of size?

Mr. RESLER. Yes.

Senator HART. As I understand your testimony, this legislation would discriminate among those companies in terms of their size offering a preference, economic preference or advantage to the larger companies over the smaller ones?

Mr. RESLER. Senator Hart, I intended to say that it has that potential. Whether or not it would have that effect remains to be seen. I am sure you can visualize that a small operator with one or a small number of sales may have less opportunity to take advantage of this transfer feature than the large operator with somewhere in the order of a half a million dollars of capital investments credits that could be transferred. So it is a question of opportunity among the various sizes.

Senator HART. Is there any situation under this legislation where the net result would be that a particular company or firm would end up paying less money?

Mr. RESLER. It is not so intended; no, sir.

Senator HART. But could it operate that way? Can you envision a situation where it could happen?

Mr. RESLER. The only manner in which I could visualize would be in the difficulties encountered in administering a series of timber sale contracts with rate adjustment features built into the contract, which could possibly result in a loss. One would have to ascribe it to our fault if that occurred—but it would be possible on a given sale because of the added difficulty in administering sales, to maintain the accounting systems and sufficiency of deposits on each independent contract.

There is a difference in the way rates can decline and raise with variations in the market. You are coupling that escalation feature with the opportunity to transfer purchaser credits among sales. We can envision some areas of concern.

Senator HART. Is there any set of circumstances under which the operation of this proposed statute would result in a loss of revenue to any level of government, Federal or State?

Mr. RESLER. We would not suggest that it would cause a permanent loss. If it occurred as I say, it would be a complication that we would encounter in administering the act. But no, it amounts to a deferral based on the face of the legislative act.

Mr. PETERSON. There is a possible technicality, which I understand is not intended by the act. That is the question of whether purchaser credit which turns out later to be ineffective could be transferred.

In other words, with the escalation, deescalation feature, purchaser credit might be transferred out that later turns out to be ineffective. But that is a technical thing that could be cleared up.

Assuming that that were cleared up, we wouldn't anticipate any loss. We would anticipate only a deferral in the point in time.

Mr. RESLER. We assume that it is the intent of the chairman of this committee that this legislation would not in any way work to that end.

Senator HART. Aside from the fiscal implications of deferrals and, the delay of the counties getting the money, would this proposed legislation have any impact on the competitive relationships among various timber companies?

Mr. RESLER. I think you will hear testimony here this morning, Senator Hart, that would indicate that that would not be the case. We have no basis other than speculating about the opportunities that might change established competitive relationships.

That is so far as we can see at this time. It does cause us some concern, however.

Senator HART. Thank you very much, Mr. Chairman.

Senator McCLURE. I have just a couple of follow-on questions and then I will yield to Senator Domenici.

Isn't it possible that if this bill were enacted that the financial incentives to the companies would be enhanced and as a matter of fact they might bid more for current contracts and if that occurred then there would be a national enhancement of revenues, both for the counties and for the Federal Treasury?

Mr. RESLER. Yes, sir. It could work that way.

Senator McCLURE. Because of cost of financing, which is a burden for small companies and particularly for small companies would be diminished and they could afford then to bid more for the stumpage.

Mr. RESLER. Yes. That financial advantage would be more directly apparent under this arrangement than under the manner in which it is now handled. That is correct.

Senator McCLURE. A second question, just as a follow-on, you mentioned this would be a change in the terms of the contract and you are reluctant to have contracts changed. Isn't there a provision for changing contracts and isn't it a matter of fact that many contract clauses are added after the contracts are signed?

Mr. RESLER. Yes, sir. That is built into the contract now. We can make that kind of an adjustment, updating contracts by mutual agreement which this would amount to. Our specific references to the tying together of individual contracts over time would be the major cause. The rest of it is merely work for us.

Senator McCLURE. Senator Domenici.

Senator DOMENICI. Thank you, Senator McClure.

One of the reasons you have cited in opposition to this bill is that it might work to the benefit of some large contractors and to the disadvantage of some small ones within the same national forest.

Do you happen to know whether this objection is theoretical or real? Could you tell us without too much checking on your part the competitive situation in the national forest between large and small contractors?

Mr. RESLER. Senator, the first part of your question, it is theoretical. The way it is framed the intention would not be to enhance the competitive position of one operator over another, regardless of size or distinction.

I think the specific reference that we make would depend almost exclusively on how the operators, themselves, saw their competitive relationship, availability of working capital under this arrangement as opposed to prior conditions.

As I mentioned earlier, I really can't elaborate on that because it is speculative on our part. It happens to be a consideration that we would favor the framers of this legislation to take clearly into account.

There may be some testimony later on that would shed some light on this question.

Senator DOMENICI. I have found that both the large and the small operators are very willing to express their opinions to me as a Senator. I have both kinds in my State. I have found little or no opposition to this bill, based upon your theoretical statement that it might work to the advantage of one and the detriment of another.

On the other hand I find that the small operator at this point in history is in serious economic trouble whether or not we pass this rather minor adjustment favorable to the capital needs of both small and large.

Don't you find find that the small operator is having an enormous amount of trouble just existing and isn't it true that many of them have been closing down in the last 18 months? Aren't many small mills closed for one reason or another in all parts of the Nation as a result of the economics of the timber industry?

Mr. RESLER. Senator, there is no question but what the entire industry has come through a very troublesome period, and by saying come through, I don't necessarily mean to imply that they are out of the woods yet.

Certainly the economic situation has been such that operators have been injured financially and obviously the impact is greatest on the smaller operators who may be in a less solid financial state.

To the extent that is true, as I am sure it is in many cases, the freeing up of any kind of working capital obviously would be an assist.

Senator DOMENICI. As far as I am aware, perhaps the chairman knows something to the contrary, I have found no objection to this legislation, based upon this theoretical advantage competitively to one over another within the same national forest.

Has the chairman had any such indication from those in the field? I think they have a rather unified approach. They know these hearings are going on. We have letters from small and large. Do we have any testimony from the small operators?

Senator McCLURE. Senator Domenici, there has been no contact that I am aware of from any segment of the forest industry that would indicate that this would change the competitive balances in the purchasing or marketing of timber products.

Senator DOMENICI. I notice, to follow on with reference to your concern about the counties, I find here again, as is so obvious in much legislation in these economically difficult times, that some balancing is required. I find some testimony that will be forthcoming soon from counties that where the timber industry is a large part of their economy, that they have 20 to 25 percent unemployed. They have mills closed down. I assume that when you are talking about a deferral on the counties receiving money for road construction that you also have to take the other side of the equation and say they are losing in all kinds of taxes they need to maintain their counties. They have suffered enormous losses because they are heavily dependent upon the timber industry.

I see that most of them favor the deferral because of the unemployment.

Do you have any observations with reference to that? Should that not be part of your concern for a stable industry?

Mr. RESLER. It most certainly is a matter of concern to us. We have not had prior access to that assessment. I have seen some of the testimony this morning that will be presented. It certainly coincides with your summary very closely.

I think one thing that might be kept in mind, however, is that while this kind of authorization would definitely free working capital, you should also understand that under certain economic and market conditions, there may be some incentives to retrench on expenditures rather than to continue to make that money available in the form of additional jobs.

Here again it is speculation. I am sure that you will have testimony later on today that can add more specifically to this point than I can but we are expressing some of the possibilities which may or may not develop.

Senator DOMENICI. With reference to one other point that you make, Mr. Resler, you indicate that if we legislatively impose this additional condition which, in some cases, is retroactive, that there would be reason for the industry to expect that contracts will be changed from time to time, even after they have entered into them.

Why do you assume that it is not the prerogative of Congress to change your contractual authority from time to time in any event, whether or not it changes what the timber industry expects or not?

Mr. RESLER. Senator, we do not presume to tell Congress what it may or may not do. The point being that this is a modification that is retroactive and therefore it does, as I indicated, provide us a basis for some concern. It is a retroactive provision and that frankly concerns us.

Senator DOMENICI. You can administer it, nonetheless, can't you?

Mr. RESLER. Senator, we would make a valiant effort to administer what every Congress in its wisdom passes and the President signs. Yes, sir.

Senator DOMENICI. Is there anything so sacred about the rules and regulations in an industry that is having as much trouble as they are, that some change other than that which you can implement administratively might not be in order?

Mr. RESLER. No, Senator. I didn't mean to suggest that we think that way. No. The rules and regulations are meant to be changed, based on good and sufficient basis. We understand that.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator McCLURE. Senator Hart.

Senator HART. I would like to ask one personal request; that is, if you could provide, without too much difficulty for the record, the counties in Colorado that will be affected by this, and the amounts of money involved?

If that is going to be too onerous a burden, let me know. We are trying to get some views from the county people on this legislation. It would be helpful to know which of the principal counties are involved.

Mr. RESLER. Senator, I think we can provide you an estimate. We have it for the State in total. Our problems are involved in breaking it down by county. But we can give you a fair estimate.

Senator HART. Round numbers or else we can go to the State office.

Mr. RESLER. We will try to provide that.

[The information requested follows:]

U.S. DEPARTMENT OF AGRICULTURE,
FOREST SERVICE,
Washington, D.C., June 19, 1975.

Hon. GARY HART,
U.S. Senate

DEAR SENATOR HART: At the May 19th hearing on the bill S. 364, relating to certain Forest Service timber sale contracts involving road construction, you requested that we provide you with an evaluation of the effect of the bill on the 25 percent payments to Colorado counties that are made pursuant to 16 U.S.C. 500.

Enclosed is a table which illustrates what the effect could be on payments for fiscal year 1976.

Column one lists the counties that received payments from fiscal year 1974 receipts.

Column two lists the amounts received.

Column three lists an estimate of the amount the counties would receive for fiscal year 1976 based on the 1974 level of payments as reduced by the effect of S. 364, if enacted on July 1, 1975. The reduction reflects our estimate of the amount of earned but unused purchaser credit that will be available for transfer and our estimate of how much would actually be transferred.

Column four lists an estimate of the amount the counties would receive for fiscal year 1976 based on predicted fiscal year 1975 payments as reduced by the effect of S. 364, if enacted on July 1, 1975. The reduction also reflects our estimates of purchasers credits available for transfer and probable transfers.

Sincerely,

JOHN R. MCGUIRE,
(For Chief).

Enclosure.

TABLE.—FOREST SERVICE ESTIMATE OF THE EFFECT S. 364 COULD HAVE ON THE FISCAL YEAR 1976 25-PERCENT PAYMENTS TO COLORADO COUNTIES

County	Actual payments for fiscal year 1974 (16 U.S.C. 500)	Estimated fiscal year 1976 payments based on fiscal year 1974 levels as reduced by effect of S. 364	Estimated fiscal year 1976 payments based on fiscal year 1975 predicted levels as reduced by effect of S. 364
(1)	(2)	(3)	(4)
Archuleta.....	\$97,079	\$62,221	\$42,806
Clear Creek.....	17,084	13,865	10,494
Conejos.....	36,071	26,580	19,366
Delta.....	8,288	6,598	4,940
La Plata.....	93,041	59,369	40,761
Garfield.....	47,230	39,969	30,919
Gilpin.....	2,403	2,129	1,842
Grand.....	58,530	46,118	34,868
Gunnison.....	51,734	38,702	28,355
Hinsdale.....	75,059	51,724	36,712
Jackson.....	19,064	5,386	5,284
Jefferson.....	1,834	1,785	1,740
Mesa.....	35,904	30,932	23,752
Mineral.....	78,714	54,894	39,152
Moffat.....	2,496	879	810
Montrose.....	22,977	19,829	15,234
Park.....	11,195	11,066	10,931
Rio Blanco.....	29,659	22,064	17,387
Rio Grande.....	33,288	24,498	17,840
Routt.....	33,400	9,622	9,387
Saguache.....	85,649	63,187	46,131
San Juan.....	37,060	23,969	16,557
San Miguel.....	13,424	11,296	8,611
Dolores.....	83,248	53,121	36,471

TABLE.—FOREST SERVICE ESTIMATE OF THE EFFECT S. 364 COULD HAVE ON THE FISCAL YEAR 1976 25-PERCENT PAYMENTS TO COLORADO COUNTIES—Continued

County (1)	Actual payments for fiscal year 1974 (16 U.S.C. 500) (2)	Estimated fiscal year 1976 payments based on fiscal year 1974 levels as reduced by effect of S. 364 (3)	Estimated fiscal year 1976 payments based on fiscal year 1975 predicted levels as reduced by effect of S. 364 (4)
Montezuma.....	57,379	36,614	25,138
Alamosa.....	3,341	2,471	1,803
Ourray.....	9,179	7,871	6,035
Eagle.....	54,776	47,743	36,788
Pitkin.....	45,736	39,863	30,716
Summit.....	32,636	26,403	19,875
Boulder.....	5,056	5,055	5,055
Larimer.....	22,662	22,662	22,662
Chaffee.....	6,872	6,872	6,872
Custer.....	2,493	2,492	2,492
Freemont.....	1,525	1,524	1,524
Huerfano.....	2,127	2,127	2,127
Lake.....	2,377	2,377	2,377
Las Animas.....	336	335	335
Pueblo.....	501	500	500
Douglas.....	2,309	2,309	2,309
El Paso.....	1,638	1,637	1,637
Teller.....	2,052	2,052	2,052
Total.....	1,227,425	890,710	670,647

Senator McCLURE. So that I might understand that question and if I don't, I think perhaps you might not, was there a request for the impact of this bill or the total amounts of payments to the counties under the 25-percent fund?

Mr. RESLER. I understood that—

Senator HART. I am trying to find out which of the counties in my State are most heavily affected, where the heaviest timbering operations are, and the rough volume of their operations.

Mr. RESLER. I should think in order for it to be best understood, we would try to provide both the receipts under normal situations and the impact effect, if we can do that.

Senator McCLURE. Could I ask you this question? How are you going to determine the impact?

Mr. RESLER. By looking at individual sales under contract primarily, and on a sample basis. We have done some of that work. We have it for parts of Colorado.

Senator McCLURE. Can you determine from that what the impact will be, over what time frame? Can you determine whether or not the entire unused credits in the same forest will be consumed and not overmasked by increased production on another sale?

Mr. RESLER. May I ask for some help here?

Mr. TODD. Yes. It is increasingly difficult with the smaller geographic areas you are dealing with. I would have some problem with the counties. But certainly in using the same assumptions we have in Colorado, we can probably assume the impact on the individual counties would be about that same portion.

Senator McCLURE. What assumption is that?

Mr. TODD. We built up the figures on the basis of the best judgments that the Forest Service made as to how much would be earned on the sale unused and transferred. It comes out nationwide to about 62 percent.

Senator McCLURE. 62 percent of what?

Mr. TODD. Of the amount earned but unused would likely to be transferred, if it could be.

Senator McCLURE. That 62 percent would all be transferred and all consumed?

Mr. TODD. Yes.

Senator McCLURE. Over what period would it be consumed?

Mr. TODD. This is during fiscal year 1976, for everything previously earned and to be earned in fiscal year 1976.

Senator McCLURE. It is your estimate that 62 percent of the total credits would be transferred, only 38 percent used on the sales upon which those credits were earned?

Mr. TODD. Figures for what has been earned in the past have already been reduced by amounts applied to timber already harvested. So these are just residuals we are talking about.

Senator McCLURE. Isn't it more likely that the residuals will actually be used than the initial, on the sale on which they are earned?

Mr. TODD. I would have to assume that the support for this measure would indicate a considerable desire to transfer.

Senator McCLURE. I would suspect that is true, but I am not sure that that is a good basis upon which you can make your estimate to justify a 62-percent figure.

Mr. TODD. I have to confess that we really don't know what the figure is.

Senator McCLURE. How are you going to respond to Senator Hart's request, if you don't know?

Mr. TODD. We have in our sample, several forests from Colorado in which we asked people that put these figures together to give us the best estimate they could, basing it on the individual purchaser, on what might be available for transfer. That is the best information we have. I suggest we might break that down using the same percentage relative to the counties.

Senator McCLURE. But saying that it is available for transfer does not necessarily mean that it is going to be transferred?

Mr. TODD. That is absolutely correct. We expected our people to look at the other contracts that these purchasers had and simply use their best judgment as to what might happen. It is admittedly very speculative.

Senator McCLURE. All I am trying to do is get the figure for the record so that Senator Hart can use that information when he gets it upon what basis the estimate is made. Now it comes out, I suppose, by ranger district or by forest supervisor office they are making a guess as to how much because of earned but unused credits a particular purchaser may have compared to other contracts that he has on the same forest that he might use it.

Mr. TODD. Right.

Senator McCLURE. Is that correct?

Mr. TODD. Yes.

Mr. RESLER. Mr. Chairman, might I add one basis for our assumption? As long as there were earned credits, effective credits available, I think the assumption would logically be that that working capital would be put to work as quickly as possible and the main concern we have in making the estimate is with the question of whether or not

the timing of operation on both of these sales or several sales would permit it.

Senator McCLURE. He may use those earned credits on that sale or he may transfer them to another sale or a combination of other sales.

Mr. RESLER. We won't really know what happens on this until after it becomes an act, obviously.

Senator McCLURE. If he transfers them to several different sales and uses them very quickly, then the forward projection would be that there would be a very rapid increase in the recovery as timber is removed from all of those other sales.

Mr. RESLER. Correct.

Senator McCLURE. Senator Gravel.

Senator GRAVEL. Thank you very much, Mr. Chairman.

I didn't entirely understand the request of Senator Hart but I know the request I would make in that regard and maybe it does dovetail with his. You are going to break out the data for Senator Hart for each county as to the amount of credits that could be used. Is that what the request was?

Let's reaffirm the request so we all understand it.

Senator HART. I am afraid my request was much more rudimentary. I am just trying to find out where the greatest impact in terms of volume of business is being done; in which counties, and we will go to the county commissioners and try to get their figures.

Senator GRAVEL. Let me expand on that point. Can you break out what the amount of credit is in our State? I think it would be good to just develop a chart showing where all the credits are right now.

Then from that, I would judge it would be very easy, if they used all the credits, to determine what the impact would be in each area. I think everybody should be aware as to what the financial impact could be in each of the counties.

Certainly you must have these records because you write the checks.

Mr. RESLER. Senator Gravel, we do not have those figures available to us without going back and running through the calculation on each individual sale. We have, as Mr. Todd indicated, done some sampling.

Senator GRAVEL. You mean you don't have any idea as to what they are going to be hitting you with or what you are laying out to industry in costs?

Mr. RESLER. No, sir. I didn't mean that. We obviously have an accounting system to tell us precisely what the data is.

Senator GRAVEL. Do you have a computer over there?

Mr. RESLER. Yes.

Senator GRAVEL. I understand the administration has a few computers. Do you plug the credits questions into the computer so you could find out where we are? It seems good accounting practice. We are talking about a big chunk of money. Is that an unfair request?

Mr. RESLER. No. Certainly the request isn't unfair. I am only concerned with the work involved in developing it.

Mr. PETERSON. The question is not that we don't know how much earned purchase credit is there on the books. The question is as Senator McClure has indicated the question of asking how much of that would, be transferred, how much would an individual purchaser transfer?

First, you have to determine whether he has two sales or not on the same forest. Then you have to look at his operation and see whether he has a practical opportunity to transfer. That isn't in the computer, that kind of information. We can get the potential, but how much of that would actually be transferred is not something you could pull out of a computer.

Mr. Todd has gone through this, if he wants to add something. But that is our basic judgment. It is our judgment based on a sample of sales. We have in excess of 15,000 such sales on the books right now. So you have to apply judgment to each one of those 15,000 sales to get any reasonable estimate.

So that is the reason for the samples we have taken, as Senator McClure has indicated, there is some speculation; but we have applied that judgment to the larger group.

Senator GRAVEL. I can see where that would take place. But it appears you can't prepare for the committee a breakdown of all the credits in existence and relating—you can't do it.

Mr. TODD. Not out of the computer; we have a program that summarizes the individual ones.

Senator GRAVEL. Do you have a breakdown by States?

Mr. TODD. We have tried to make an estimate by States. That is all it is, an estimate.

Mr. RESLER. Senator, may I ask that you let us explore what kind of information we can provide, and within an acceptable range of effort, I would trust, and feedback to you a little more specifically?

Senator GRAVEL. Let's proceed on that basis and see what you can get back to us. I think you can see what we are looking for. The obvious change in policy in this legislation is to stop the private loggers from having to help the Federal Government out with money. That is what it really is. We are borrowing their money.

If you buy the principle that we put in the roads, all we are doing is accomplishing it through the loggers. We ought to let them recoup the money as we put it in rather than our warehousing their money for a year or more or whatever the case may be. Since this bill goes against that policy, we want to do away with warehousing the money from the private people. It is like taking a tax ahead of time. We don't even give interest on it.

I am not too keen about the IRS practice and I am less keen about this practice here. If we need money, let us go to the marketplace and borrow money. That is just a matter of philosophy. In the interest of trying to implement this legislation, our problem is to see what impact it would have on our local governments.

I might suggest that what we could do is write into this bill a 3-year period in which existing credits can be amortized. That would mitigate the impact financially on both the communities and on the Federal Government. Then make the revised policy apply to all subsequent contracts.

So if you can provide us with this information, obviously it would facilitate our making a judgment of whether we do go with a scale-down in time or just leave it as a sudden death operation as we now propose in the bill.

Mr. RESLER. We will at least come back shortly with an indication of what we think we can do to satisfy the request.

Senator GRAVEL. I want to commend the chairman for the legislation. I am a cosponsor of the bill. I hope the committee will act on it promptly.

Thank you, gentlemen, for your efforts.

Senator DOMENICI. Mr. Chairman, I have a couple more questions.

As I look at your statement and think about this for a minute, couldn't your concern for the counties be handled by just giving a 75-percent credit? They would still get their 25 percent and we would be back where we were. That would get rid of your concern for the counties, assuming that that is a bona fide concern and that they themselves are concerned. Is that not correct?

Mr. RESLER. Yes, sir. There are a number of ways in which the counties could be made whole.

Senator DOMENICI. Isn't that the split now?

Mr. RESLER. 25 percent to the counties, plus another 10 percent goes back to the Forest Service for construction and maintenance of roads and trails within the State and counties.

Senator DOMENICI. With regard to fiscal matters, not in-house management problems or problems of conditional contracts that you have referred to, what other objections would the office of OMB have to this kind of legislation?

Mr. RESLER. I would have to speculate as to what their specific concerns would be. I would think, Senator, one would certainly be deferring receipts. Under the new Budget Act, the timber purchaser construction credits will be included in our budget as we present the Resources Planning Act submissions for next year. This would be coupled with a reduction in receipts which would tend to cause some problems as far as administration is concerned. I think that would be the principal one.

Senator DOMENICI. So the principal one is the flow of receipts as it applies to your outlay budget. Is that right?

Mr. RESLER. Yes.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator McCLURE. That principal concern really isn't the Forest Service's; it is OMB's. That flow of receipts doesn't affect your outlays one bit, does it?

Mr. RESLER. No, sir. The only effect it has, is on the 10-percent forest road and trail fund, but still the job has to be done one way or the other.

Senator McCLURE. I recognize that. Still in this period of time when we are appropriating almost every day, authorizing certainly, and have already authorized in the budget resolution not a few thousand or a few million, but a few billion dollars to accelerate some job creation opportunities in this country, it seems to me that OMB might look at the potential this has for getting some work underway right now on some timber sales.

If we can afford to invest billions of dollars for job creation, it seems to me we might be willing to defer receipts for 16, or 24, or 36 months in order to do the same thing.

Mr. RESLER. Mr. Chairman, it would certainly have the effect of freeing working capital. I would be most interested in the testimony later on today to indicate what the industry reaction is to the question of how that freed working capital might best be put to use. As you

express it, it certainly would have a favorable effect on local economies.

Senator GRAVEL. I just wanted to establish one point for the record. I cannot speak for the rest of the Nation but at least in Alaska there has been a new policy established with respect to timber practices; that is, to require that cutting be limited to smaller areas and that the type of roads constructed be more permanent. That will allow loggers to return after a period of time and then cut a little bit more and wait a while until that area becomes more sightly and aesthetically attractive, then go in and cut another piece.

The effect of that policy has been to require better quality roads and a larger capital investment in them before the money could be recouped by the private loggers. Is that not correct?

Mr. RESLER. Yes; that is correct.

Senator GRAVEL. So what we have done, through Government policy in the last 3 years is actually in the opposite direction. We have required them to come forward with a larger capital investment and obviously Senator McClure's bill would eliminate the warehousing of money. It also would remove the greater burden we have placed on the private sector in timber.

Mr. RESLER. That is correct, Senator. The directions we are taking in change of policy leads to those very effects. But these changes are very important from the standpoint of developing, both the productivity of the land and our capacity to manage those lands for a fuller array of uses. But it has the effect of adding capital requirements, there is no question.

Senator GRAVEL. I agree with the policy. I think it is a sound management policy. I think we must recognize, Senator McClure, that it has at least—has this policy been undertaken nationally or just in Alaska?

Mr. RESLER. Yes, sir. We have been moving in that direction for quite a number of years. It has been a combination of things, partly growing out of the environmental concerns of the sixties coupled with some rather substantial increases in the cost of doing business for the last few years. It has had a marked effect.

Senator McCLURE. Let me just put into the record a half dozen figures that illustrate what has happened, the figures from 1967 and 1975 which I think illustrate the shift: In 1967, the Forest Service construction of roads was \$52.5 million; in 1975 that had dropped to \$21.8 million. In 1967, the Forest Service purchaser engineering was \$20.4 million; that by 1975 had grown to \$85.2 million. In 1967, purchaser credits on these sales was \$59.4 million; by 1975, that had grown to \$187.4 million.

I think that is an adequate measure of the increased burden upon timber purchaser of a change in policy which has national purposes, but they bear the expense of it. I would say again that the counties bear the expense of it, too, one-fourth of that increased cost.

Just one last question. We will get down to the question of the county commissioners later when they testify and their concerns about the reduction in receipts from the 25 percent fund. But I suspect every county commissioner in any timber producing region of this country is very, very much concerned about the 20 percent unemployment rates in his county. He is going to be very much persuaded by the men and women that live in his county that are out of work

and have been out of work, and they are going to be doing whatever they can to get these men back to work. If this bill will help get them back to work, I suspect that they are going to say that outweighs their concern about the receipts to the county treasury, roads and schools funds from the 25 percent fund.

One request and one comment: We have a copy of a letter dated June 16, 1972, from the Comptroller General of the United States to the Secretary of Agriculture. That letter makes reference to a letter from Secretary, or from the Assistant Secretary, dated April 28, 1972. I wonder if we could have for the record a copy of the letter of April 28, 1972, for the Comptroller General?

Mr. RESLER. Certainly, Mr. Chairman.

[The letters discussed above are included in the statement from John F. Hall, National Forest Products Association. See appendix C to that statement, p. 55].

Senator McCLURE. I don't know that there is anyway in which the administration can ever pin responsibility for a decision, but I would like to ask this question for that reason in that attempt.

Is this decision by the Forest Service to oppose this legislation a result of complete Forest Service discussions unaffected by the requests or discussions with OMB?

Mr. RESLER. Mr. Chairman, this is our position based on our own analysis and considering the time frame in which we had to make a judgment. Obviously, the Office of Management and Budget has much the same concern. They are somewhat different than ours; but, nevertheless, they represent a part of the administration's general concern.

I would like to say that we are not unmindful of some of the beneficial aspects of this legislative proposal that you and the others have made. I would say again that we all are confronted with mixed emotions on it, but largely affected by how we perceive this legislation might be implemented.

It is on that basis that we have to make a judgment in the short term for the purposes of this hearing. We would prefer because of what is at stake to err, if err we do, on this basis. This is not to suggest that we are not amenable to considering other changes that might overcome some of our real concerns.

Senator McCLURE. I am not sure that I understood whether OMB had consulted with you about this prior to your adopting a position.

Mr. RESLER. Mr. Chairman, I am saying that we do consult with OMB; but I am not suggesting that OMB directed this decision.

Senator McCLURE. Thank you, very much. We appreciate your testimony.

[A letter from the Industrial Forestry Association relative to the testimony of Mr. Resler follows:]

INDUSTRIAL FORESTRY ASSOCIATION,
Portland, Oreg., May 28, 1975.

HON. LLOYD M. BENTSEN,
Chairman, Subcommittee on Transportation, Senate Committee on Public Works,
Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On May 9, 1975 one of my colleagues, N. E. Bjorklund, wrote you a letter supporting S. 364. Thereafter, we received a copy of the Statement made before your committee on May 19 by Mr. Rexford A. Resler, Associate Chief, U.S. Forest Service, which recommended that the Bill not be enacted. We

want to furnish you, by these means, our reaction to Mr. Resler's statement. It would be greatly appreciated if this letter could be included as part of your hearing record on S. 364.

In these times of economic difficulties, it is hard to understand the negative reaction of the U.S. Forest Service toward S. 364, which would facilitate the use of private money advanced to the United States for construction of roads by national forest timber sale purchasers by permitting transfer of monies representing credit for roads built from one timber sale to another. The proposal is a practical solution to the critical working capital problem of all national forest timber purchasers.

The only reason that timber sale purchasers are in the unique position of having to finance the construction of public roads with their own capital is because the Congress has neither authorized nor appropriated sufficient funds to allow completion of the national forest transportation system to this date. This Association has worked for more than 25 years to get recognition by the Congress of the need for completing the national forest road system as the first essential for effective protection, management and use of the national forests. Because of the difficulty of obtaining sufficient road funds, the Forest Industry, which depends heavily upon the national forests for raw material, has willingly cooperated with the Government for many years by building roads as part of its timber sale contracts. Many of these roads cost hundreds of thousands of dollars for a relatively small sale of less than five million board feet, which is only enough timber to run a medium-sized operation two months. With the necessity for purchasing timber ahead in order to have the leadtime it takes to build roads, to log during those seasons when it is permitted, to keep their employees on the job and to be prepared for the demands of the marketplace, many relatively small national forest timber purchasers have from a half million to several million dollars tied up in roads ahead all the time. The purchaser credits granted therefrom, and which are used to pay for national forest timber as it is harvested, are probably the most important cashflow that timber purchasers have. Because theirs is a risky business, not only because of market fluctuations but the vicissitudes of weather, money borrowed for road building is expensive. Because the Forest Service does not allow interest on borrowed capital as a cost in appraising its timber, it is essential that the amount borrowed be kept at a practical minimum.

Mr. Resler estimates that the amount of purchaser credit which would be available under S. 364 is so high that it would have an adverse effect upon the share of receipts to the counties. We believe that the possible diminution of receipts to counties estimated by Mr. Resler is exaggerated. First, a significant part of the \$169 million in existing purchaser credits would be used in fiscal year 1976 anyway and it would be impossible for the industry to use all the available purchaser credits in any one year. Actually, the fact that companies would have a better cash flow under S. 364 from purchaser credits would allow expansion of timber harvesting operations during the current year, which would have a beneficial effect upon county receipts.

The best way to assure continuation of a high level of county receipts is to do away with the current artificial timber shortage from the national forests. This has been caused by failure to sell two billion feet annually of the full allowable cut in the last several years. Get that deficit on the market and we'll have a healthier economy all around.

The cost of timber purchaser constructed roads are actually borne 25 per cent by the counties, so if the Forest Service is really concerned about county receipts, it could substantially reduce the costs of roads built by national forest timber purchasers by building less luxurious roads under the policy of Public Law 88-657 which authorizes maximum economy roads. The Forest Service has had a tendency to overdesign and overbuild too many roads, but the operator who bids on national forest timber must accept such wasteful practices when he buys a timber sale and obligates himself to build roads as part thereof to Forest Service specifications.

Neither do we buy the implication of Mr. Resler's testimony where he alleges that a major portion of purchaser credit transfers would benefit those with the most and largest sales on the same national forest. The principle of transferring purchaser credit would affect everyone equally as his interest appears. Regardless of an operator's size, minimizing his borrowed working capital is essential for successful operation of his business.

Mr. Resler also indicated in his testimony that modifications of existing contracts, which S. 364 would authorize, would be contrary to the basic contractual principle that both parties should be bound by conditions which they freely

negotiated. The fact is that Forest Service timber sale contracts are not "freely negotiated." They are, simply, offerings by the Government, at terms and conditions it imposes as a part thereof, to an industry with many bidders for raw material who have no choice but to buy or die. With the Forest Service controlling more than half the total merchantable timber supply in the United States, it is patently clear that a major share of the Nation's fourth largest industry is at the complete mercy of the Federal Government when it comes to survival.

The final objection in Mr. Resler's statement is that linking of two or more timber sale contracts by transferring purchaser credits would cause problems in contract administration. These would be no more difficult than other contractual problems of such administration with which the Forest Service has 70 years experience.

Finally, Mr. Resler's statement does not list any of the many benefits which would result from the transfer of purchaser credits which will encourage timber purchasers to build roads as fast as possible for timber harvest by operators and timber management by the Forest Service and that they will be ready when additional timber sales in the area are to be sold.

It is difficult to understand the philosophy of a Government objecting to making a practical financial arrangement which would not only safeguard companies from economic disaster, but help assure jobs for their employees, stabilize dependant communities and, in the long run, provide a stronger financial support for county government.

Very truly yours,

W. D. HAGENSTEIN,
Executive Vice President.

Senator McCLURE. The next witness is Gerhardt Bendix, secretary-manager of the Hi-Ridge Lumber Co., Yreka, Calif. I think the panel will include Carl Hakenson, forester, Duke City Lumber Co., Albuquerque, N. Mex.; John Hall, vice president, Forestry Affairs, National Forest Products Association; Wayne Gaskins, Western Forest Industries Association, Portland, Oreg.; Howard McDowell, Inland Forest Resource Council, Missoula, Mont.; W. T. Richards, president, Idaho Forest Industries, Inc., Coeur d'Alene, Idaho; Art Saiser, logging manager, Fort Vancouver, Wash.; and David Vincent, Northside Lumber Co., Philomath, Oreg.

Gentlemen, you can lead off in whatever order you like. Do I understand, Mr. Richards, you are the leadoff witness?

INDUSTRY PANEL

STATEMENTS OF GERHARDT BENDIX, SECRETARY-MANAGER, HI-RIDGE LUMBER CO., YREKA, CALIF.; CARL HAKENSON, FORESTER, DUKE CITY LUMBER CO., ALBUQUERQUE, N. MEX., JOHN HALL, VICE PRESIDENT, FORESTRY AFFAIRS, NATIONAL FOREST PRODUCTS ASSOCIATION; WAYNE GASKINS, WESTERN FOREST INDUSTRIES ASSOCIATION, INC., PORTLAND OREG.; HOWARD McDOWELL, INLAND FOREST RESOURCES COUNCIL, MISSOULA, MONT.; W. T. RICHARDS, PRESIDENT, IDAHO FOREST INDUSTRIES, INC., COEUR D'ALENE, IDAHO; ART SAISER, LOGGING MANAGER, FORT VANCOUVER PLYWOOD CO., FORT VANCOUVER, WASH.; AND DAVID VINCENT, NORTHSIDE LUMBER CO., PHILOMATH, OREG.

Mr. RICHARDS. That is correct, Mr. Chairman. I am Tom Richards, president of Idaho Forest Industries, a lumber company located in Coeur d'Alene, Idaho. I would like to introduce the members of our industry panel. I will serve as the moderator for the presentation.

As we put the presentation together, we anticipated that there would be some concern over the effect of this legislation on small companies. You will note that the five companies whose representatives are presenting testimony today, are all in the small- and medium-size category. We would like to present our five statements this morning, and then we will respond to questions.

Mr. Gerhardt Bendix on my left is secretary-manager of the Hi-Ridge Lumber Co. Yreka, Calif., and on his left is Art Saiser, logging manager, Fort Vancouver Plywood, Vancouver, Wash. On his left is David Vincent, president, Northside Lumber Co., Philomath, Oreg.; on my immediate right is Carl Hakenson, forester, Duke City Lumber Co., Albuquerque, N. Mex.

Also appearing with us today, on the far left, is Mr. Howard McDowell, executive vice president of Inland Forest Resources Council, Missoula, Mont.; on the far right, Mr. John Hall, vice president, Forestry Affairs, National Forest Products Association, here in Washington, D.C.; on his immediate left, Mr. Wayne Gaskins, forester for the Western Forest Industries Association, Portland, Oreg.

Mr. Gaskins and Mr. Hall have prepared statements which we will submit for the record.

Also with us in the audience today is Mr. Elliot Jenkins, International Paper Co., in Eugene, Oreg. Mr. Jenkins is the newly elected president of the National Forest Products Association.

Mr. Chairman and members of the committee, Idaho Forest Industries is a successor to a family company that was founded in north Idaho in 1908. We are a medium-sized company by lumber industry standards, presently employing approximately 390 people. In addition, we also provide employment indirectly for many subcontractors who are involved in logging, road building, and other related activities.

I wish to thank you for giving me the opportunity to present testimony in support of Senate bill 364, which permits the transfer of earned credits for purchaser road construction on U.S. Forest Service timber sales contracts.

Roads built under present timber sale contracts are the only Government construction projects for which the builder is not reimbursed in a timely fashion as construction progresses. As purchasers of national forest timber, we have become very much aware of this fact in recent years. Larger and larger amounts of our operating capital are being tied up in timber sale contract roads; roads which are long-term capital investments owned by the Federal Government. At the same time, we are paying cash, again our operating capital, for timber being harvested from other timber sales on the same national forest.

This very inequitable situation is partially corrected by the proposed legislation. It would permit the transfer of those earned, but unused purchaser road credits to the timber sales where charges for stumpage are being made. This would free that operating capital to build other roads, to harvest other timber, to make improvements, and more important, to keep people working in doing all of these jobs.

Ten years ago, this would not have been a critical issue to our company. At that time, the Federal Government was building multiple-use roads that provided most of the primary access to harvestable timber; and the purchasers built only the spur roads. Today, the Federal share of national forest access road construction is about 5 percent¹ of the total, with the purchaser providing the other 95 percent.

Ten years ago, purchaser road projects were comparatively small and Forest Service appraised road costs in our region were \$3 to \$4 per thousand board feet. Currently, timber sale road costs are appraised at an average of \$20 to \$25 per thousand and in region I have run as high as \$70 to \$75 per thousand board feet. This is further compounded by the provision for purchaser engineering which creates additional costs, and delays in recovering those costs.

We presently have three such timber sales with engineering credits of \$72,000, a good share of which we will not be able to use on those sales for at least a year and a half after they have been earned. This may not seem like a large sum of money to others, but for us, it is a very material amount; an amount sufficient to pay one of our small operators for 3 months of logging, or to build 2 miles of road.

Had that engineering been performed by a contractor for a Federal road construction project, he would have been paid as soon as each engineering phase was approved. He would then use those payments to continue his work. Under our timber sale contracts, we do not have that opportunity. I believe the Federal Government should not only be an equal opportunity employer, but also an equal opportunity contractor.

Let me give you another example of how our cash flow has been affected over the past 5 years at Idaho Forest Industries. From 1969 to 1972, the impact upon the amount of working capital retained in roads, which we were not able to use, was between \$40,000 and \$50,000 per year.

During 1973 and 1974, this average of earned, but unused, road credit skyrocketed to an average of \$175,000 per year. This is indeed the amount of money that we have outstanding right now, and by December 30, 1975, our best estimate of earned, but unused, credit will be \$375,000. This amount is very significant to our small company.

If we were able to transfer this amount of earned road credit to different timber sales in the national forest, not only would we save approximately \$34,000 in interest charges, but it would make us more competitive in bidding on other timber sales, and it would enable us to also perform the other necessary activities in our industry, such as road building, slash disposal, regeneration and forest stand improvements on our own lands.

We can predict safely that the trend of increased road construction costs will continue into the future. Contributing to this is the fact that we are building roads in more difficult terrain, the mileage between smaller cutting units is increasing, and environmental and aesthetic constraints result in higher road standards. Add to this the ever-present inflationary trend and there is no way that our costs can go anywhere but up.

¹ Library of Congress Congressional Research Service Report on S. 364, P. CRS-5.

In view of the obvious impact upon our operations, we ask that Senate bill 364 apply to all existing contracts in the region. This does not change the competitive situation since all timber purchasers are operating under these same intolerable conditions. We know of no timber purchaser in the region that opposes this legislation as written.

We also suggest that this committee undertake a review of the several related issues concerning national forest road construction standards and financing following committee action on S. 364.

Thank you.

Mr. Chairman, I would also like to make a couple of comments at this time concerning the statements by Mr. Resler. I think it is important to note that the Forest Service has, on at least two occasions that we know of, indicated support of the concept contained in Senate bill 364. In this regard, we would refer to Mr. Hall's testimony as submitted.

I think it is also important to look at the statement the Forest Service has made concerning where the benefits would flow. They have made the statement that the maximum benefits would flow to the larger companies. It is my opinion that the smaller companies are the ones who most need the working capital relief right now, particularly after the last 12 months of the lumber market, not the large companies: The passage of this bill would likely reduce any competitive disadvantage that the smaller companies now find themselves under because of very severe lack of working capital.

I would like to call on Mr. Gerhardt Bendix.

STATEMENT OF GERHARDT BENDIX, PRESIDENT, WESTERN TIMBER ASSOCIATION

Mr. BENDIX. Mr. Chairman and members of the committee, I am here today to speak for my firm and for Western Timber Association, which I currently serve as president. I am Gerhardt Bendix, secretary treasurer of the Hi-Ridge Lumber Co., Yreka, Calif., where we own and operate a sawmill and planing mill.

We are a closely held California corporation and have operated continuously in Siskiyou County, Calif., since 1953. We have been totally dependent on national forest timber since we started. I am one of the incorporators of our company and I have been a stockholder, officer and director since that time. We have 78 year-round employees and our logging contractor and log haulers have approximately 80 employees during the logging season.

It has been one of my primary functions to understand the Forest Service timber sale contract, to bid on timber sales as they are offered, and to discuss with the Forest Service all problems occurring during our operations under the contracts.

EQUITABLE TO SMALL OPERATORS

As a small operator, we believe a provision to make established purchaser credit interchangeable between timber sales would be equitable. With limited access to credit, it would enable us to build roads well in advance of logging operations. Due to the difficulties of terrain and magnitude or required road construction, we frequently

have to build roads and establish purchaser credit in a timber sale long before we can log the timber and apply these credits as payment for the timber. Since the Forest Service owns the lands and the roads built on it, it constitutes an interest-free loan to the landowner to have these roads constructed well in advance of our need or use of these roads.

As illustrations: We purchased the Salt Walker timber sale, contract No. 013982, December 16, 1971. Purchaser credit upon completion of the roads is \$133,959. We built roads in this sale and had established purchaser credit of \$93,117 in August of 1973. Due to special conditions, we only logged a small amount of the timber, and as of April 1974, had a remaining credit of \$74,244.

In November of 1973, the Forest Service asked that we consent to a change of this sale for environmental reasons and we agreed. This is a time-consuming undertaking and we have not yet received the modified contract. For well over a year now, there has been \$74,000 tied up.

The Dutch Creek timber sale, contract No. 016910, awarded November 20, 1973, provides purchaser credit of \$77,870 upon completion of roadbuilding. We had, by December of 1974, established purchaser credit of \$64,046, without moving one log from the sale area. The first log from this sale was logged April 21, 1975.

The East Horse timber sale, contract No. 016316, was purchased June 28, 1973. Purchaser credit was \$176,049. We established \$8,200 of purchaser credit in September of 1973, and by October of 1974, this had increased to \$11,244. No logging has taken place in the sale area.

COSTLY CAPITAL TIED UP

In these three examples, our company has tied up \$149,534 in sorely needed and costly capital. Cash payments for timber scaled were \$2,037,643 in 1974, and \$1,207,160 in 1973. It would have been helpful had we been able to apply the \$149,000 against the cash required for 1973 and 1974 stumpage payments. Under the timber sale contracts now held by us, roads to be built will be even more costly and more time consuming to construct. We will have to build roads long before logging can begin, and I can foresee that we will tie up ever greater amounts over longer periods of time.

Four timber sales purchased by us in 1974 have a total volume of 57.9 million board feet. The purchaser credit available is \$1,197,091, or an average of \$20.68 in purchaser credit per 1,000 board feet.

Last year, our firm earned \$476,358 in purchaser credit through required construction of national forest roads. Much of this was applied directly to stumpage charges as the work progressed, but as I have just outlined, about 20 percent of it was tied up to our disadvantage. Interest on such funds, either paid or forgone, can be substantial. The Forest Service gives no effective recognition in timber appraisals to interest payments on borrowed capital. The elimination of such interest costs could result in greater Government income through higher bidding.

A DRAG ON LOCAL ECONOMIES

Such burdens inhibit operators from efficiently using their plants and employees more fully to harvest and process national forest timber.

The net effect is an unnecessary drag on the local economy. It should be noted that the total Government receipts will be unchanged over an extended period.

We understand there has been some concern that the Government would be adversely affected if after the transfer and use of purchaser credit in a second sale there was a drop in the market causing downward escalation of stumpage rates under the contract under which the credit was originally established. There is no reason for such concern. Charges against cash and purchaser credit in each timber sale account adjusted throughout the life of the sale to permit, to the extent possible, full use of purchaser credit for payment of stumpage charges above base rates. However, the proposed act would require that the amount of transferred purchaser credit be added to total base rate value as a floor below which escalation could not reduce the amount of cash payment. Further, the administrative work involved will be simple and minimal.

I have used our firm's experience to illustrate the consequence for one purchaser of national forest timber. There are many other firms dependent on Federal timber. In California, the Forest Service sells about 2 billion board feet per year and Western Timber Association members process about 90 percent of it.

On behalf of all of those firms, we ask approval of the proposed legislation with any perfecting amendments needed to meet the objective of a fair recognition of purchasers' expenditures for roads. The use of any effective purchaser credit earned on a national forest to make stumpage payments under any contract on the same national forest is justified as a matter of equity that should help stabilize the timber economy.

Mr. Chairman and members of the committee, I sincerely appreciate the opportunity to be heard. Thank you.

Mr. RICHARDS. Thank you, Mr. Bendix.

Next on our panel is Mr. Art Saiser.

STATEMENT OF ART SAISER, LOGGING MANAGER, FORT VANCOUVER PLYWOOD CO.

Mr. SAISER. Mr. Chairman and members of the committee, my name is Art Saiser and I am logging manager for Fort Vancouver Plywood Cooperative in Vancouver, Wash. Today I am representing the Douglas-fir region industry as well as the worker-owned plywood industry. We are one of 17 cooperative plywood plants still operating in the United States.

Cooperative plywood plants are worker-owned and worker-operated facilities that depend on public timber supply for their raw material. We generally run in good times and bad and have a steadying effect on a community because all of the worker-owners are local and spend their money in the area where they work. There were 34 worker-owned plants on the west coast at one time and now there are only 17 left.

The reasons for the elimination of half of the worker-owned industry vary widely, but the root cause can generally be traced to raw material shortages or insufficient operating capital. Today the Federal Government holds the answer to both these problems.

THE FIRST PROBLEM: RAW MATERIAL SHORTAGE

Since the Federal Government controls 60 percent of the softwood sawtimber inventory in the country, we feel that they hold the solution to our raw material problems. By adopting management policies that encourage intensive forestry and timber harvest and by receiving adequate funding from Congress, the U.S. Forest Service could greatly increase the output of timber and our raw material situation would be greatly improved.

THE SECOND PROBLEM; INSUFFICIENT OPERATING CAPITAL

Roads investments have changed since I first went to work at Fort Vancouver in 1966. Almost no roads are built now by road contractors using direct contracts and appropriated funds. Hardly any roads are built in advance of timber harvesting to open areas where high mortality losses occur. Just last month, Chief McGuire, testifying before the House Appropriations Committee, stated that the Gifford Pinchot National Forest, the one we buy new timber on, loses 80 million feet of timber annually to mortality. This would run two plants like ours forever.

The burden of financing road construction has been completely shifted to timber purchasers who construct roads under reduced timber prices. This puts a strain on our ability to raise capital and operate efficiently.

Congress could help our short capital situation by passing S. 364 which would permit the transfer of effective purchaser credit between timber sale accounts within individual national forests. Worker-owned operations are small in comparison to other U.S. businesses. Our gross sales amounted to \$15 million last year and we are one of the biggest worker-owned plywood mills. Our payroll was about \$5 million. In an average year, we have about \$700,000 tied up in road building contracts, which is a lot of money for us. Here are two examples of how the bill before you would help us recover our investment in building national forest roads faster.

"Tie" timber sale was purchased by my company from the Gifford Pinchot National Forest in Washington State in June 1972. Our company policy is that a road should be built and accepted 1 year before hauling over it. This allows for the road to stabilize and is an environmentally sound operation. Last August, \$162,610.20 of an approved road job of \$275,188 was completed and accepted.

We were able to log and haul only \$22,130.15 worth of timber from the road right-of-way of this sale. So we still have \$140,480.05 of effective purchaser credit tied up on the sale that we can't use. Transferring this credit to another sale that we are currently logging, would allow us to recoup our investment in a matter of weeks, instead of years. Multiply this by several sales and you can see large sums of money are involved.

In addition to the financial burden, there is an environmental reason to allow transfer of purchaser credit. This would encourage roads to be built far ahead of hauling of timber so that settling of roadbeds could take place and disruption of the soil would be minimal. Also, if adverse weather conditions occurred, operations could be shifted because of the lack of urgency for recovering road investments rapidly.

An example of this besides the one just given is on a sale we recently bought called the roundoff. This sale calls for a \$504,393 road job. If we had transferable purchaser credit, we would do this job immediately. This way, the U.S. Forest Service would get the advantage of a paved road 2 years earlier and we would get it for less cost because of inflation. Under the present procedures, we won't pave until next year when we are scheduled to log the sale.

Section 2 of the S. 364 with its reference to sales presently under contract is antiinflationary because it will encourage operators to build roads immediately, even though timber may not be harvested for 1 or 2 years. More important, perhaps is the fact that it will increase employment now in the construction industry which is suffering from underemployment in our region.

I hope your committee and the Congress will make the effort to secure early passage of this legislation so employment will increase and we can use the transferable purchaser credit this season.

I appreciate the opportunity to appear before this committee.

Mr. RICHARDS. Thank you, Mr. Saiser.

Our next panelist is Mr. David Vincent.

STATEMENT OF DAVID T. VINCENT, NORTHSIDE LUMBER CO.

Mr. VINCENT. Mr. Chairman, members of the committee, my name is David T. Vincent of Northside Lumber Co. located in Philomath, Oreg. We are a small family-owned and operated sawmill employing approximately 150 people out of our community of 2,000. We have provided steady employment for our 150 employees since 1957 at this present location and are 95-percent dependent on Federal timber for our raw material requirements.

Mr. Chairman, I am here today to testify in support of S. 364 and to try and emphasize the importance of this legislation to small companies such as ourselves. S. 364 would allow us, as purchasers of United Forest Service (USFS) timber, to be paid promptly for work completed to USFS contractual specifications and accepted by the USFS as meeting those specifications.

Our company has always felt a responsibility to construct our USFS timber contract roads on an orderly scheduled basis which means beginning construction as soon as weather permits in the next operating season after purchase. This allows our company to have roads constructed at least 1 year in advance of scheduled logging and provides us with the flexibility necessary to meet varying order demands and market situations.

Because of this philosophy, which is nothing more than good business practice, we found ourselves on February 1, 1975, with over \$900,000 of cash tied up in earned unused purchaser credits, a situation that we are now attempting to solve. These dollars were spread over a total of seven timber sales (table I) affecting approximately 35 million board feet of timber. Had this money been available for transferring to sales we were actively logging, our company would not have been placed in a difficult cash flow situation which forced us to the open money market to try and find financing.

[Table 1 follows:]

TABLE I.—SIUSLAW NATIONAL FOREST TIMBER UNDER CONTRACT WITH EARNED PURCHASER CREDITS

Sale name	Date of purchase	U.S.F.S. contract No.	Effective earned credits 1 Feb. 1, 1975
Minister 2-72	June 30, 1972	02796-7	\$65,435
Howell 203	Aug. 18, 1972	02823-9	160,710
Crab 1-73	Dec. 1, 1972	02862-7	79,978
Pitchfork 1-73	Dec. 6, 1972	02865-0	38,909
Benner 1-73	Dec. 20, 1972	02875-9	78,442
Divide 1-74	Oct. 30, 1973	03180-3	183,994
Minister 1-74	Dec. 4, 1973	03208-2	303,639
Total			911,107

† Earned but unused purchaser credit.

Mr. VINCENT. We currently have three other sales under contract requiring a total of \$300,000 worth of road construction and reconstruction. Needless to say, construction of these projects would provide a much needed stimulus for our local already sagging economy. The fate of this legislation will influence our decision on whether we proceed this summer or wait and pay more, due to inflation and so forth, next year or the year after, when hopefully, the cash flow situation will be improved.

The importance of this legislation is amplified today because of USFS average road costs having skyrocketed due to increased design requirements such as paving, environmental restrictions, and increased construction costs. Six to eight years ago, a large or high-priced road construction project was \$50,000.

Today timber sales with \$300,000 to \$500,000 worth of road credits are commonplace. Sure this is an obvious reflection of our times, but also an obvious indication of a need for transfer of earned effective purchaser credits to sales that are currently active so that small, as well as large, businesses can operate their facilities on a more effective and efficient basis.

Thank you again for this opportunity to present our testimony.

Mr. RICHARDS. Thank you, Dave.

Our final panelist is Mr. Carl Hakenson.

STATEMENT OF CARL HAKENSON, FORESTER, DUKE CITY LUMBER CO.

Mr. HAKENSON. Mr. Chairman, members of the committee, I am Carl Hakenson, forester, from Duke City Lumber Co. with manufacturing facilities in Espanola, Cuba, and Albuquerque, N. Mex., and Winslow, Ariz. Our facilities employ 550 workers and provide jobs for an additional 250 workers in our contract logging operations.

We favor passage of S. 364. We know this support is shared by all members of the Federal Timber Purchasers Association and believe the same is true of all the timber industry in the Rocky Mountains. We are 100 percent dependent on national forest timber for our survival.

The purpose of this bill, to transfer earned, but unused, purchaser road credits to meet charges for stumpage on operating sales, is timely

and extremely important to the lumber industry and the economy in the timber dependent areas. Almost all of the timber sales purchased by Duke City Lumber Co. require the company to construct purchaser-credit-type roads which, in reality, are multiple-use or all-purpose roads.

Purchaser-credit roads present a cash flow problem for our company. A prerequisite to logging timber sales is the construction of a specified road to the standard, design and location specified by the Forest Service in the contract. This construction requires the expenditure of large sums of money which usually cannot be transferred into cash credits for long periods of time because we find that purchaser credit roads must be completed and accepted by the Forest Service before logging operations begin.

Duke City Lumber Co. currently has 10 Forest Service timber sales under contract where credit for road construction has been earned, but is unused. These sales involve a total appraised construction allowance of \$1,893,463. The earned, but unused, credit amounts to \$563,870. Tying up that much cash has worked a tremendous hardship on our company and has limited our operations these last 8 months. S. 364 would allow our company to transfer the \$563,870 to sales which are being operated upon to meet stumpage charges.

Beginning in September 1974, Duke City Lumber Co. closed down all of its contract logging operations, involving approximately 250 workers. Another 80 employees at our mill operations were also laid off. The overriding reason for this drastic curtailment from our total work force of 550 employees was cash flow. If the earned, but unused, purchaser credit could have been transferred to other sales, we would have been able to keep more of our work force employed. This is an important consideration since one of the counties in northern New Mexico within our operating area had an unemployment rate of 23.6 percent in March of 1975.

We do not feel that because we are considered one of the larger companies puts us in any different category than the smaller companies when consideration is given to the fact that we have had a large number of people unemployed the same as anyone else. A lot of this problem has been due to the roads that we are currently building for the Forest Service.

The effect on our one company is multiplied many times over throughout the region in which we operate. In New Mexico, the Forest Service estimates the amount of earned, but unused, purchaser credit as of December 31, 1974, was \$602,652, and as June 30, 1975, is estimated to be \$712,761. In Arizona, as of December 31, 1974, this was \$1,549,637, and as of June 30, 1975, will be \$1,185,325.

We took the time to contact the various national forests within the area in which we operate in region 3 to get these figures, which we feel are quite accurate. Thus, for the southwestern region, the amount of earned, but unused, purchaser credit is currently fluctuating around \$2 million. We believe this to be a substantial interest-free loan to the Federal Government which is hindering our efforts to provide jobs and goods at a reasonable level.

Being able to transfer road credits would allow our company to construct purchaser credit roads months earlier than is presently being done. This would allow fresh earth fills to settle and stabilize

prior to the period of heavy use, thus diminishing the effects of erosion and pollution. It would also provide added protection to the forest by permitting early access for fire, insect, or disease control.

The question has been raised that transferring earned, but unused, purchaser credit would adversely affect the 25-percent fund to the counties. We feel that the effect upon counties will be negligible when viewed in the broad context. Based upon the previous year, in New Mexico, S. 364 would have had the one-time effect of deferring not more than 20 percent of the counties' share for 1 year.

The real problem involved in this issue is that purchaser-credit road costs are always deducted from stumpage. The \$1,893,463 mentioned earlier comes off the top of stumpage payments and the counties receive no part of this money under the 25-percent fund formula. This subject should not be considered in the deliberations of S. 364.

There was a remark by Mr. Resler that the average time per sale perhaps was 4 years in length. I feel that as far as the sales that Duke City has under contract, a 4-year sale is an extremely long sale for us. By the time we buy a sale and find a contractor to build the road and finally get the road accepted by the Forest Service, we have tied up a lot of money. But there is not that much lag in time that this deferral would be a major detriment to county receipts as far as I am concerned.

The present record keeping system of the Forest Service would contain checks and balances to keep an orderly account of transfers of credit from one sale to another. The Forest Service is presently authorized to transfer unused cash from one sale to another without bookkeeping problems. Based upon discussions with persons involved in such bookkeeping, no problems are foreseen and very little additional work would be required for the transfer of road construction credit.

On that subject, I personally contracted two of the national forests in our region and I have gone right down to the grassroots, talking to the clerks who would do this work. They inform me personally that there will be no problem in this regard as far as they are concerned.

In summary, Duke City Lumber Co. supports S. 364. To consider the merits of this bill, it must be kept in mind that purchaser credit road construction is a liability tied to a timber sale. It only makes good business sense to allow the cost of credit earned and not used for road construction to be transferred to other sales to meet stumpage obligations.

[Statement of Wayne Gaskins, forester, Western Forest Industries association and John F. Hall, vice president, forestry affairs, National Forest Products Association follow:]

SENATE PUBLIC WORKS COMMITTEE

SUBCOMMITTEE ON TRANSPORTATION

STATEMENT OF
WESTERN FOREST INDUSTRIES ASSOCIATION

Washington, D. C.

May 19, 1975

Mr. Chairman, Members of the Committee, my name is Wayne Gaskins. I am a forester for the Western Forest Industries Association, a forest products manufacturers' association comprised of the independent timber processors located throughout the western United States, including Alaska. Our members are heavily dependent on the National Forests of the West for their raw material supply. I am here today speaking in behalf of the President of Western Forest Industries Association, Mr. Jack Gates who is also the President of 3-G Lumber Company, located at Philomath, Oregon. Mr. Gates had planned to be here to testify in behalf of the Association membership but conflicts in his schedule made it impossible for him to appear.

We are particularly appreciative that your committee and the sponsors and co-sponsors of S. 364 and its companion, H. R. 5077, are giving consideration to this most important proposal affecting a portion of our business relationship with the Federal government.

This proposed legislation would permit the transfer of earned effective purchaser road credits from one timber sale to another sale being operated by the same contractor on the same National Forest.

Background-- A successful bidder for a National Forest timber sale is often required by the terms of the purchase contract to construct access roads to the sale area. In many cases, these are multiple-purpose roads, designed to high standards for recreation, fire control, and other administrative and public uses. The contractor is required to invest his own capital in the road construction, often beginning a year or more before any timber is harvested and any income is derived from the sale.

This circumstance arises from the need in many areas of the country to devote one full operating season to the road construction-- and waiting until the next year to begin the logging operation.

The advance expenditures for road construction are credited to the operator's account on that particular timber sale, and such credits are later used by the operator to compensate for timber as it is harvested--up to the full credited amount. Once the credits are used, cash payment commences for timber removed.

Problems for Operators-- Even in normal times, the requirement for major, advanced capital investment in road construction places an exceptional burden on the contractor. The funds usually must be borrowed

at high rates of interest or diverted from needed investments in plant and equipment. It is even worse in times such as now when the lumber market is severely depressed and it is difficult or impossible to borrow road construction funds at any rate of interest.

Effects of Present Policy on Government Revenues-- A major portion of the National Forest road system is being financed from timber-sale revenues rather than from appropriated funds. When the contractor advances money for construction under the requirements of his contract, it is the equivalent of an interest-free loan to the Federal government.

Effects of Proposed Change-- If the effective credits earned but unused by a contractor could be transferred to another sale in the same National Forest--where the same contractor is currently removing timber--the penalty now imposed on the contractor would be remedied.

It is important to realize that not all such credits would be transferred; therefore, the effect on current Treasury accounts is likely to be considerably less than the total of such outstanding credits. This arises from such circumstances as (1) the interval between road construction and timber removal on some sales is not sufficiently great to warrant an operator's request for transfer of credits, or (2) the operator does not have another sale under contract in the same National Forest, and therefore his road credits would remain nontransferable under the proposed change.

By limiting the transfers of credits between sales in the same National Forest, the proposed legislation would impose little, if any, additional accounting requirements on the Forest Service. The credits must be applied at some point, and it makes just as much sense to apply them against current removals as against removals at some distant date.

Anticipated Public Benefits-- In some instances, the financial constraints imposed on the contractor by the non-transferability of road construction credits results in delays in road building until the latest possible time. This weighs against the optimum orderly flow of timber products onto the market during times when housing construction is booming and demand for lumber and plywood is high.

Also, it follows that the roads would be available to the Forest Service and to the public earlier than otherwise.

If the successful bidder on a sale knows that capital invested in road construction is not to be tied up for such a long time in a currently non-productive aspect of his operation, he would be more likely to commence construction immediately--permitting much greater flexibility in the timing of actual harvesting operations to conform to changing needs in public demand for wood products.

In summary I would like to emphasize two points that are most important to us in the industry. With the passage of this proposed

legislation, it would be possible to initiate road building programs immediately on timber sales under contract and scheduled for harvest in future years. This would be an immediate benefit in improving employment opportunities in our many Western communities that are experiencing extremely high unemployment levels. The other point is the desirability of getting the road "in place" well in advance of any active logging of the timber. By getting our road "in place" this year for timber harvested 1, 2, or 3 years in the future, it enables us to lessen the environmental impact on the area. Because of these two benefits alone this legislation should be enacted as quickly as possible. We support the retroactivity as proposed in this bill as it affects contracts already in existence. By allowing the retroactivity it will mean immediate jobs created this calendar year.

I appreciate the opportunity to appear before you today and urge rapid enactment of this proposed legislation.



NATIONAL FOREST PRODUCTS ASSOCIATION
1619 Massachusetts Avenue, N. W., Washington, D. C. 20036
FORESTRY

STATEMENT OF
JOHN F. HALL
NATIONAL FOREST PRODUCTS ASSOCIATION
BEFORE THE
TRANSPORTATION SUBCOMMITTEE OF THE
SENATE PUBLIC WORKS COMMITTEE
ON S. 364
MAY 19, 1975

Mr. Chairman and Members of the Committee:

I am John F. Hall, Vice President - Forestry Affairs with the National Forest Products Association. NEPA is a federation of 26 regional, product and species associations representing the growers, manufacturers and wholesalers of solid wood products throughout the United States.

Approximately one-third of our nation's timber supply comes from Federal lands, the bulk of that land is National Forest land administered by the Forest Service of the Department of Agriculture.

The Forest Service and the Administration have on two occasions indicated support for the concepts in S. 364. On January 30, 1975, Assistant Secretary of Agriculture Robert Long, in a letter to Mr. Paul Ehinger, Chairman of the industry-wide Timber Supply Task Group stated:

"The Forest Service says it agrees with your recommendation about the transfer of Purchaser Credit. I would like to see if you and the Forest Service can get together on a proposal that we can take up with OMB. It may take some compromises on both sides, but this is an area where we should be able to reach rather prompt decisions."

(Mr. Long's letter appears as Appendix A to my statement.)

On April 25, 1975, Forest Service Director of Timber Management Richard Worthington provided Senator McClure with a paper entitled "Supplement to Department of Agriculture Report on S. 364" which contained a proposed revision of S. 364 and an accompanying explanation of the proposed revision. The forest products industry agrees with the proposed revision of S. 364 as presented in that Forest Service paper. (The Forest Service paper appears as an Appendix B to this statement.)

The reason why legislation is needed to accomplish the objectives of S. 364 are set forth in a June 16, 1972 letter from the Comptroller General to the Secretary of Agriculture. The Secretary had sought the General Accounting Office's decision on a proposal to transfer earned, effective road credits from one sale to another within the same National Forest. The Comptroller General's reply confused the situation resulting from so-called "deficit" sales with those sales having a normal profit margin. This confusion resulted in the opinion that the proposal would have authorized the exchange of timber for road construction without statutory authority. The Comptroller General held that this was contrary to the intent and provision of P. L. 88-657 and therefore would necessitate special legislation. S. 364 has been drafted to avoid the possibility of using timber values in one timber sale area to pay for road construction in another timber sale area. (The 1972 exchange between the Secretary of Agriculture and the Comptroller General appears as Appendix C.)

An additional reason why enactment of S. 364 is needed is to overcome some of the inequities imposed on National Forest timber purchasers by the Administration's change in the methods of financing National Forest road construction.

The forest products industry has consistently urged that the Forest Service construct the bulk of National Forest roads. The Public Works Committees have consistently authorized sufficient funds for such road construction. Administration Budget requests and Congressional appropriations have not kept pace with your directions. One result is that the Forest Service increased the mileage and value of roads constructed by timber purchasers as part of National Forest timber sale contracts. An excellent chart showing the trends in financing for National Forest road construction was prepared by Mr. Kenneth Tollenaar, Director, Bureau of Governmental Research & Service for the University of Oregon. (Mr. Tollenaar's chart appears as Appendix D of my statement.)

These roads are built for multiple-use purposes not just timber harvest alone. The location, alignment, grade and standards of the roads are modified to assure they can meet the full management needs of the National Forests. When available, supplemental funds are provided by

by the Forest Service to allow the purchaser to defray the additional cost of road construction necessitated by multiple-use requirements.

The purpose of S. 364 is to allow National Forest timber purchasers to more promptly be paid for the actual work they perform on Federal forest lands.

The bill or its legislative history should make clear that purchasers are authorized to transfer "earned," "effective" Purchaser Credit from one timber sale to another within the same National Forest. The terms "earned" and "effective" are important.

"Earned" means that the Purchaser Credit has been recognized by the Forest Service as the estimated cost of performing the work and that the work has actually been performed to the specifications in the timber sale contract.

"Effective" refers to that portion of the Purchaser Credit which may be used to pay for the value of timber above Base Rates.

Both of these terms are important to assure that this bill would not be applicable to so-called "deficit" sales. Those are sales for which the full cost of the road can not be regained from that portion of the timber value that exceeds Forest Service established "Base Rates." Such Base Rates must be paid in cash. A glossary of "Timber Sale Contract Definitions" appears as Appendix E.

S. 364 does not provide a "free loan" to timber purchasers. The Government has been getting the free loan, if it is to be considered that. Currently, timber purchasers have expended millions of dollars on construction of Forest Service required roads, as shown in Appendix D. Purchasers are unable to recoup the value of their investment until they begin to harvest timber from that particular sale. In an orderly process, road construction should usually precede timber operations by a full operating season. Under the present situation Purchasers' working capital is tied up for a year and they must deal in the money market for funds to meet timber harvest requirements on other contracts.

Purchaser Credit is available only when the work has been performed to the requirements of the contract. In some cases, phase performance is possible for which the purchaser is credited for that portion (usually a road segment or major portion of road structure) as it is performed and accepted by the Forest Service.

Purchaser Credit is not available for temporary roads. The cost and value of those roads is considered in making the basic timber appraisal. Those roads do not enter into the effect of S. 364.

There are less than 6,000 sales to which the provision would apply. Existing contracts provide that: "By agreement and with compensating adjustments, where appropriate, this contract shall be modified to provide for: (a) the exercise of any authority hereafter granted by law or Regulation of the Secretary of Agriculture if such authority is then generally being applied to Forest Service timber sale contracts, and (b) any other contractual provision then in general use by Forest Service." (Section B8.3, TSC 2400-6, 1970.)

The provisions of this bill would benefit all regular purchasers of National Forest timber -- large or small. Typical purchasers usually hold several timber sale contracts at the same time. Passage of S. 364 would be especially helpful to those companies, usually the smaller ones, which have extremely tight cash flow situations. By permitting purchasers to consider their "earned," "effective" purchaser credit as the same as cash for the payment of National Forest timber, the Government would suffer no loss. The counties which receive 25 percent of National Forest cash receipts would receive no loss. The temporary delay, during the first year, of a portion of such receipts would be offset by the opportunities for continued employment and economic activity in the area if companies are less strapped for working capital.

On April 15, Mr. Robert Wolf, Assistant Chief, Environmental Policy Division, Congressional Research Service prepared a memorandum for the Staff Director of the Senate Public Works Committee discussing the history and current situation of road financing on the National Forests. In two areas, the forest industry agrees with that assessment, namely:

- (1) The bill "needs greater specificity, the definition of terms and a full explanation as to exactly how it would operate." This would occur through the hearing process.
- (2) "A need exists to review the entire road program and to consider the extent to which the orderly harvest of National Forest timber, and the orderly movement toward securing the optimum level of multiple-use management and sustained yield of sources is aided or inhibited by the present policies and practices." This is a long term objective which the industry supports. Hopefully, implementation of the Humphrey-Rarick Act will assist in this objective. However, action on S. 364 should not be delayed pending this complete review.

Other comments and conclusions in the Library of Congress memorandum are not endorsed by the forest products industry. A memorandum on those comments appears as Appendix F of my statement.

There are numerous other issues associated with the National Forest road construction program which should be reviewed by the Committee on Public Works and its Subcommittee on Transportation. The forest products industry urges such a review be undertaken following completion of the Committee's favorable action on S. 364.

Thank you.

C O P Y

APPENDIX A

January 29, 1975

Mr. Paul F. Ehinger
Chairman
Timber Supply Task Group
Edward Hines Lumber Company
P. O. Box 278
Westfir, Oregon 97492

Dear Mr. Ehinger:

All of us in the Administration concerned with timber supply appreciate the effort of you and your group to bring to our attention the serious problems now facing your industry. I'm sorry that I could not attend the January 10 meeting in the White House, but I did attend the meeting with Secretary Butz and I have read your briefing materials.

This Department, along with the White House staff, the Office of Management and Budget, and the Council of Economic Advisors gave serious consideration to the seven recommendations beginning on page 13 of your background statement. We also considered your recommendation that an independent investigator be appointed to review the industry's problems and report his findings to the White House. The idea of an independent investigation is attractive, but we have doubts about the timing. As you may know, since 1968 there have been at least 15 separate studies of the timber supply program. We have a large number of recommendations before us. Action is needed now, not another study. I hope you and your colleague will reconsider this recommendation. If you'd like, I will be glad to discuss it further with you.

The first of the recommendations regarding the Forest Service timber sale program, on page 13, calls for an economic analysis of road design standards. The Forest Service tells me that this is being done and that environmental analysis is also required. None the less, I suspect that there are situations where roads are indeed overdesigned, and I would like to know if you can suggest some specific examples that we could jointly evaluate. I know that the Forest Service has been trying to cope with this problem for some time. Perhaps we should look for a way of working together to make more rapid progress. I think we should get away from generalities, however, and try to find some particular problem that can promptly be corrected.

Recommendation 2 calls for a reevaluation of slash disposal standards. Since this is a rather complex area involving many variables including utilization of residue, regeneration, and fire control, I would be hesitant to undertake a broad study. I would welcome your suggestions as to some specific areas which illustrate the problem in which we could review. Again, I am concerned over broad, time consuming studies.

The third recommendation is one with which all of us can agree. However, training will take time and I would like to see the Forest Service correct deficiencies more promptly. The Clearwater National Forest is one place where controversies over skyline and helicopter requirements have been particularly frequent. Rex Resler and John Sessions will be visiting the Clearwater as soon as the snow is gone to make sure that the program is being conducted properly. If you have suggestions regarding other problem areas, please let me know.

The deficit sale problem worries us also. If you still feel strongly that such a review should be made, let's talk some more about this recommendation. In the meantime, we are looking into the possibility of releasing another \$10 million in obligational authority for road construction in the balance of this fiscal year. It may be that we can give most help to this problem by increasing Federal expenditures for roads.

We agree with the fifth recommendation, but would rather seek improvement than cut off offerings immediately. Your cooperation is needed to insure that the best possible cost data are made available. I would also like to talk some more with you about this subject to see if we can find some specific ways of bringing about prompt improvement.

The Forest Service says it agrees with your recommendation about the transfer of Purchaser Credit. I would like to see if you and the Forest Service can get together on a proposal that we can take up with OMB. It may take some compromises on both sides, but this is an area where we should be able to reach rather prompt decisions.

Finally, there is no disagreement with your last recommendation regarding reforestation and more intensive forest management. Rather the problem is one of Federal priorities. As you know, the President has requested rescission on these program areas, but we think that the economic situation may have changed enough to warrant reconsideration. We are willing to undertake that reconsideration.

Again, thank you for an excellent presentation. The Department and the Forest Service join with you in a desire to achieve meaningful progress and quickly.

Sincerely,

Robert W. Long
Assistant Secretary

cc: Norman Ross
Don Webster
John Hill
Gary Seevers
John McGuire
Jack Horton

COPY

APPENDIX B
April 24, 1975SUPPLEMENT TO DEPARTMENT OF AGRICULTURE
REPORT ON S. 364Department of Agriculture Proposed Amendment

On page one of the bill strike all after the enacting clause and insert in lieu the following:

"That section 4 of the Act of October 13, 1964, (78 Stat. 1098; 16 U.S.C. 535), is amended by adding at the end thereof the following: 'Prior to contract termination, unused road credits accrued under provisions for amortization of road costs in Forest Service timber sale may be transferred to meet charges for timber under certain other timber sale contracts which provide for such transfer and are held by the same purchaser of National Forest timber and other products on the same National Forest, subject to the following requirements: (i) unused road credits may be transferred only to other contracts which contain standard provisions for the application of such credits, (ii) transferred road credits shall be applied in conformance with the standard provisions of the contract to which such credits are transferred, (iii) notwithstanding any other contract provision, cash payment for timber cut under a contract from which road credits are transferred cannot be less than the sum of (a) credits transferred from the contract less any credits transferred to the contract, and (b) value of the total sale volume at minimum rates stated in the contract.'

"Sec. 2. The amendment made by the first section of this Act shall be effective on the date of enactment of this Act. As soon as practicable after enactment, the Secretary shall develop such provisions as he finds necessary to transfer unused road credits and shall include such provisions in each Forest Service timber sale contract which contains standard provisions for the application of road credits and is awarded thereafter. The Secretary also shall, upon application of purchasers, modify such contracts to include such provisions as necessary to permit the transfer of unused road credits."

Explanation of the Proposed Amendment

AVAILABILITY FOR TRANSFER

S. 364 can be read to suggest that unused road credits may be available for transfer indefinitely. Such an interpretation could lead to requests for transfer of credit balances which may have existed under some contracts terminated in the past.

The proposed amendment expressly requires transfers to be accomplished, "prior to contract termination. . ."

AUTHORITY OF TRANSFER CREDIT

S. 364 directs the Secretary to include in each contract involving road construction a provision for credit to be transferred. While the language is clear as to what the Secretary must do, there is nothing contained in the language which expressly authorizes the transfer of credit.

The proposed amendment expressly provides that, "unused credit... may be transferred..."

CONTRACTS TO WHICH APPLICABLE

S. 364 would direct the Secretary to modify every timber sale contract involving road construction that would be in effect on the date of enactment without regard to such considerations as contract status toward completion, whether any unused credit is likely to develop, whether any credit remains to be accrued, whether the purchaser desires contract modification, and whether the purchaser has other contracts to which credit could be transferred. Because of this, the bill could create a considerable amount of unnecessary administrative work in modifying contracts.

The proposed amendment provides that unused credit may be transferred for application to certain contracts, and that the Secretary may modify such contracts to the extent necessary to implement the transfer of credit. While the amendment provides the requisite authority to meet the objective of S. 364 to make it possible for purchasers to transfer credit, it does not require mandatory modification in situations where no prospect of transfers exist. You will note that we urge that modification not be authorized. We have structured the proposed amendment to permit deletion of this feature without rewriting other portions of the amendment.

The proposed amendment also contains a requirement (section 1 (i)) that credit may be transferred only for application to another contract that is of a form that contains standard provisions for the application of such

credit. This requirement clarifies that transfers would only be made between similar contracts; i. e., contemporary contracts designed to accommodate the road cost amortization procedures.

TRANSFER PROCEDURES

S. 364 provides for the inclusion in "each Forest Service timber sale contract involving road construction" a provision for purchaser credit to be transferred to other "such contracts." The language appears to preclude transfer of credit to meet charges for timber under contracts where the roads needed to harvest timber already exist. S. 364 also provides that cash payment for timber cut under a contract from which purchaser credits are transferred cannot be less than the sum of such credits transferred. This provision would tend to preclude the effective use of any unused credit accrued under a third contract to replenish credit transferred from the initial contract.

The proposed amendment would permit credits to be transferred to meet charges for timber under contracts where the roads were already in place, provided such contracts were of a form that contained standard provisions for the application of credit. Section 1 (iii) of the amendment also provides that transferred credit can be replaced with unused credit from other contracts, in which case cash payments otherwise necessary would be reduced under some circumstances. The amendment also contains a requirement (section 1 (ii)) that transferred credit be applied in conformance with the standard provisions of the contract to which such

credit is transferred. This requirement clarifies that standard Forest Service contract provisions requiring a certain minimum level of cash payment for timber would not be voided.

EFFECTIVE DATE

S. 364 would be effective with respect to contracts in effect on the date of enactment, and the implication is that purchasers could expect to have credits transferred on that date. This could create administrative problems of considerable magnitude.

The proposed amendment would make the authorization effective with enactment, but would provide a grace period for the development of contract provisions and implementing instructions. This delay would afford an opportunity for an orderly transition into the new system.

The proposal amendment also contains language ("contracts which provide for such transfer...") to make it clear that transfer cannot take place until and unless contracts contain authorizing language.

APPENDIX C



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-175840

June 16, 1972

Dear Mr. Secretary:

Reference is made to a letter dated April 28, 1972, from the Assistant Secretary requesting our decision on a proposal by industry to change the road amortization provisions in standard Forest Service timber sale contracts so as to permit transfer of earned purchaser credit between contracts.

It is reported that "earned purchaser credit" is part of a system employed to amortize road construction costs incurred in constructing specified roads to remove timber from a particular sale area. Under the system, timber is appraised and offered for sale as if the necessary roads had already been constructed. As road construction proceeds, the timber purchaser is credited for the estimated cost of such work up to the maximum amount stated in the contract and the earned credits applied against the charges, in excess of base rates, for the timber. Since road construction must precede timber removal, and the rate of removal may not be sufficient to amortize the costs, there may be a balance of earned but unused purchaser credit equivalent to about one year's road construction cost at any given time. Industry proposes that it be allowed to apply this balance toward stumpage charges on other sales and thereby reduce cash outlays. It is argued that this would be in the public interest as it would result in a more effective use of capital and better and more orderly road construction and timber harvesting on National Forest lands.

It is the Department's position that any such benefits as may accrue would not be sufficient to offset the disadvantages, which include a temporary reduction in stumpage receipts. It is pointed out that while it might be argued that any reduction in cash payments on one sale would be offset by higher payments on other sales, there are situations where this would not be true. So-called deficit sales are cited in illustration. These are sales in which the difference between value at base rates, which must be paid in cash, and bid rates is less than the estimated road cost. Transfer of earned purchaser credit from such sales would result in reduced total stumpage charges. Another example cited involves sales from which the timber is not removed as a result of damage after construction of the road.

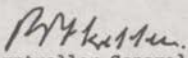
Furthermore, it is the Department's view that industry's proposal would be contrary to the long-established principle that a tract of timber may not be charged with costs for work which is not necessary to the harvesting of that timber. Cited in this connection are two decisions of our Office, B-65972, May 19, 1947, and B-130831, February 7, 1958. Also cited as an example of this principle is the following quotation from a portion of the legislative history of the Easement Act, Public Law 88-657:

"The amendment to section 4 adopted by the Senate and included in the reported bill makes it clear that purchasers of national forest timber and other forest products will not be required to pay out of their own funds more than the cost of the standard of road needed in the harvesting and removal of the timber and other products covered by the particular sale."

The question involved in the cited cases was whether your Department had authority to provide for the construction of permanent type roads beyond those reasonably required by timber purchasers to remove timber through a reduction in the appraised value of the given tract of timber. We pointed out that the only statutory authority, 16 U.S.C. 476, to sell National Forest timber provides that the Secretary of Agriculture " * * * may sell the same for not less than the appraised value * * * ." In construing the provisions of this statute we concluded that while there was nothing contained therein which expressly permits the use of proceeds from such sales for road construction, the Secretary properly recognized that timber purchasers must have access roads and may properly allow the cost of constructing roads against the appraised value of the timber purchased. However, we concluded that to provide for construction of roads of a higher standard than necessary for timber removal through a reduction of the appraised value would reduce the price of the timber sold accordingly and would result in the exchange of timber for road construction without statutory authority therefor. It is our view that application of purchaser credit to other than the tract of timber under which it was earned would likewise be the exchange of timber for road construction and without statutory authority.

Accordingly, we are constrained to object to the transfer of earned purchaser credit between contracts.

Sincerely yours,


Deputy Comptroller General
of the United States

The Honorable
The Secretary of Agriculture



DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D. C. 20250

April 28, 1972.

Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street, N. W.
Washington, D. C. 20548

Dear Mr. Staats:

Your decision is requested on a proposal by industry to change the road amortization provisions in standard Forest Service timber sale contracts. Representatives of timber purchasers have asked that future contracts be written so as to permit transfer of earned purchaser credit between contracts.

Purchaser credit is credit earned by a purchaser in constructing specified roads to remove timber from a sale area. It is part of a system for amortizing specified road construction costs, which was incorporated in the 2400-5 contract form placed in use in July 1965, and continued in the recently-implemented 2400-6 form.

Under this system timber is appraised and offered for sale as if the roads are in place. As road construction proceeds, the purchaser is credited for the estimated cost of the work up to the maximum amount stated in the contract. Earned purchaser credit may then be used to satisfy charges, in excess of base rates, for timber removed. This system permits cost amortization to keep pace with construction, provided timber is removed fast enough.

However, because road construction must precede timber removal, there is a practical limit to the speed with which earned credit may be used. At any one time most purchasers will have a balance of earned but unused purchaser credit equivalent to about one year's road construction cost. If this balance could be applied toward stumpage payments on other sales, purchasers could reduce their cash outlays, everything else being equal.

Proponents state that the change would produce public advantages in the form of more effective use of capital and in better and more orderly road construction and timber harvesting on National Forest lands. We are inclined to doubt that sufficient benefit would be realized to offset the disadvantages, which include a temporary reduction in stumpage receipts.

Our view is that the proposal would be contrary to the long-established principle that a tract of timber may not be charged with costs for work which is not necessary to the harvesting of that timber. Your decisions B-65972, May 19, 1947, and B-130831, February 7, 1958, set forth this principle. Subsequently the Easement Act (PL 88-657, October 13, 1964) made this principle a matter of statutory law. In this connection the following is quoted from the report on S1147 (which became PL 88-657) of the House Committee on Public Works:

"The Forest Service sought authority by Section 4 of the bill as initially introduced, both in the House and the Senate, to charge against timber in a particular sale the full cost of a road built to standards which would satisfy anticipated use for all subsequent timber sales and not just the initial sale.

The amendment to section 4 adopted by the Senate and included in the reported bill makes it clear that purchasers of national forest timber and other forest products will not be required to pay out of their own funds more than the cost of the standard of road needed in the harvesting and removal of the timber and other products covered by the particular sale."

The fact that an attempt to obtain broader authority was unsuccessful emphasizes congressional intent to tie road construction for an individual sale to the needs of that sale alone. While the language deals specifically with standards, it seems inconceivable that if a purchaser cannot be required under the Act to construct roads to standards higher than needed, he could be required to construct entire roads not needed on a particular sale.

It may be argued that any reduction in cash payments on one sale will be offset by higher payments on other sales. However, it can be demonstrated that there are situations in which permitting the transfer of credits would reduce the cash receipts from a timber sale without adequate compensation in the form of higher receipts from other sales.

One such situation would involve so-called deficit sales. These are sales in which the difference between value at base rates (which must be paid in cash) and value at bid (or adjusted) rates is less than the estimated road cost. The deficit condition may exist at the time of offering, in which case it is known to prospective purchasers, or may be the result of downward escalation. At any rate, transfer of earned credits from such sales would have the effect of reducing total stumpage payments.

Another situation would involve sales from which the timber will not or cannot be removed subsequent to construction of the road. This may result from catastrophic damage to the timber rendering the road unneeded. In this situation there may be no additional timber to harvest during the life of the road in which case there would be no way to recover the costs.

Under the circumstances described above the effect of the proposal would be to require the timber (purchaser) to bear the cost of road construction not necessary for its removal.

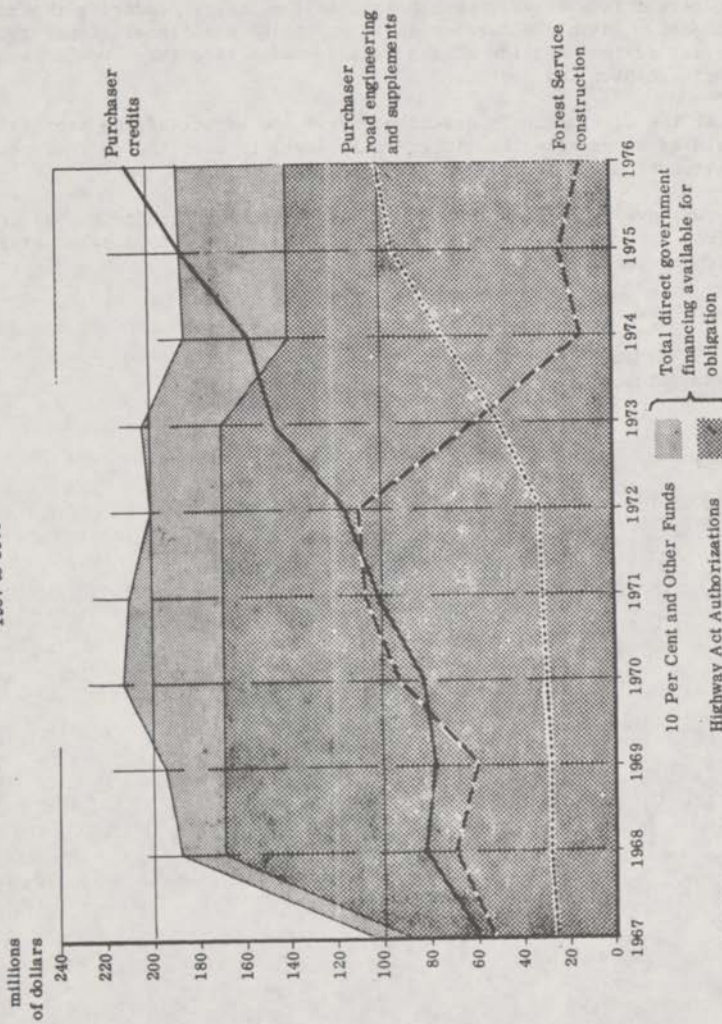
May we have your decision as to whether purchaser credit may be transferred from a sale served by the roads constructed to a sale not served by those roads?

Sincerely,

T. K. Cowden
Assistant Secretary

APPENDIX D

TRENDS IN NATIONAL FOREST
ROAD AND TRAIL FUNDING
1967 to 1976



Source: U. S. Forest Service

From: "Financing National Forest Roads: Background Information
For County Government Policy" March 1975 by: Kenneth C.
Tollenaar

TIMBER SALE CONTRACT DEFINITIONS

(Notations in Parentheses Refer to
Specific Contract Provisions)

ADVERTISED RATES (A5)

Advertised Rates are those indicated by the appraisal in which no cost allowance has been made for the construction of Specified Roads. Advertised Rates are never less than Base Rates, and include payment of deposits for "Sale Area betterment"--reforestation, thinning and brush control.

BASE RATES (A5)

The lowest rates of payment for timber authorized by the contract. Base Rates remain constant throughout the life of the contract.

BASE RATE VALUE (B4. 21)

Base Rates multiplied by the estimated volume of timber remaining.

BID PREMIUM RATES (A5)

The amount Purchaser bids in excess of Advertised Rates. Bid Premium Rates remain constant during the life of the contract.

BID RATES (A5)

The rates bid by the Purchaser. This would be the sum of Advertised Rates and Bid Premium Rates. Bid Rates may be either Flat Rates, or Tentative Rates which are subject to escalation. For purposes of convenience in collection and bookkeeping, Bid Rates include payment of deposits for "Sale Area betterment."

CONVERSION RETURN (B8. 221)

The difference between the estimated end product value and the total operating costs (which include road and other development facilities costs).

CURRENT CONTRACT RATES (B3.1)

Either Flat Rates or Tentative Rates adjusted by the escalation procedures. Thus, Current Contract Rates are the rates paid for timber at any particular time.

CURRENT CONTRACT VALUE (B3.1)

Current Contract Rates multiplied by the remaining unscaled timber volume.

DEFICIT SALE

Sale in which the value of the timber is not sufficient to offset costs (including logging, operating, road and other development costs, and an allowance for profit and risk). Technically, these are sales in which the Conversion Return reduced by an allowance for profit and risk is a negative value.

EFFECTIVE PURCHASER CREDIT (B4.21)

That portion of Purchaser Credit which will be available to pay for the value of timber above Base Rates. Technically, it is unused Purchaser Credit which does not exceed Current Contract Value minus Base Rate Value. Unused Purchaser Credit is Purchaser Credit earned to date which is in excess of the difference between Contract Value of timber scaled to date and its Base Rate Value.

ESCALATION

A process in which Bid Rates are adjusted quarterly according to changes in an index of end product prices. Tentative Rates are subject to escalation, whereas Flat Rates are not.

PURCHASER

The private party who executes the timber sale contract.

PURCHASER CREDIT (B4.21)

Credit earned by Purchaser upon construction of Specified Roads.

PURCHASER CREDIT LIMIT (B4.21)

The maximum amount of Purchaser Credit allowed. It must never exceed the total of the estimated cost of project segments. Each project segment has its separate Purchaser Credit Limit.

REQUIRED DEPOSITS (A5)

Deposits which Purchaser may be required by law to pay for slash disposal and road maintenance. Required Deposits do not include payment of deposits for "Sale Area betterment."

SPECIFIED ROADS (B5.2)

All roads, including related transportation facilities, for which Purchaser is given Purchaser Credit once they are constructed. Specified Roads are those which the Forest Service considers necessary for future management of the area. Temporary Roads are those built by a purchaser to expedite removal of timber. No Purchaser Credit is earned on these roads.

SUBSTANTIALLY COMPLETED (B5.23)

Roads where grading has been completed; effectively functioning drainage structures have been installed; and at least half, but not less than three inches, of the specified depth of the base course, if any, has been laid.

TEMPORARY ROADS (B5.1)

Roads other than Specified Roads which are constructed by Purchaser for the purpose of harvest and removal of timber. No Purchaser Credit is earned on these roads which are normally obliterated by Purchaser after use.

TENTATIVE RATES (A5)

Rates that are subject to quarterly adjustment by escalation. Tentative Rates are computed by adding together Advertised Rates and Bid Premium Rates.

TIMBER SALE ACCOUNT (B4.2)

An account of all of Purchaser's deposits, credits, payment guarantees, and the charges for (1) timber at Current Contract Rates, (2) slash disposal and road maintenance at Required Deposit Rates, (3) cooperative work at rates established by specific agreement, and (4) other charges provided in the contract.

APPENDIX F

Comments by National Forest Products Association
on the Statement Contained in the
April 15, 1975 Memo on S. 364
From Robert B. Wolf, Congressional Research Service
to the Senate Public Works Committee
May 16, 1975

In reference to timber sale roads on page 3, it is stated "Virtually no roads are built for multi-purpose use; all roads are for timber." This is not so. Roads financed by Purchaser Credit must meet multiple use objectives, as well as serve timber harvest purposes. Section 4 of P. L. 88-657 states that forest development roads are authorized "in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods."

On page 8, there is a typographical error on the first line of the last paragraph. Change 10,000 million board feet to 10 million board feet. Similarly, on page 10, third line, 1,200 MBF should be 12 MBF.

The four examples of typical sale situations discussed on pages 8-10 appear generally to be technically correct. However, the details described by this discussion are irrelevant to the subject addressed by S. 364 which is more equitable and effective use of a purchaser's capital resources.

On page 11, it is stated that the effect of S. 364 would be "to provide an interest free loan that can be used up until timber is cut under the contract... On timber purchaser roads, the promise of work would be sufficient to vest the 'credit' with the characteristics of a loan." This is absolutely wrong. Under S. 364, only Purchaser Credit which has been earned could be transferred. This is credit earned by the purchaser for work which has actually been accomplished and accepted by the Forest Service. Up until now, it is the Federal Government that has been getting the "free loan." Purchasers have been unable to recoup millions of dollars spent on road construction until they actually begin to harvest timber from the specific sales on which it has been earned.

In the last paragraph on page 11, it is stated "Also, the 'unused' portion of a credit, created by the type of situation in a deficit worth sale controlled by base stumpage rate requirements, could permit the purchaser to receive full estimated allowance." This seems to imply that S. 364 would allow transfer of ineffective purchaser credit arising in deficit sales. Deficit sales are those in which the value of the timber is not sufficient to support the cost of road construction and other requirements necessary to harvest the timber. There is no intention that S. 364 apply to these situations.

On page 12, it is implied that the recent history of overbids in the Douglas-fir region of the Pacific Northwest somehow makes the issue of transferring Purchaser Credit not important. In present circumstances, an individual purchaser may be required to invest \$25,000 to \$100,000 in a road system on a single timber sale before receiving any return. Considering the present high cost of money, the existing policy has a significant adverse impact on timber purchasers--many of whom do not have large capital reserves.

On page 14, the specter of possible application of S. 364 to deficit sales is again raised. As previously described, S. 364 does not apply to these situations.

On page 17, it is implied that under S. 364, there may be a need to distinguish between roads that are temporary and roads that are permanent. This is not necessary. Purchaser Credit can only be earned for construction of specified roads. These are permanent roads needed for future management of the area. Temporary roads needed for short-term purchaser operations are obliterated after use. No Purchaser Credit allowance is made.

In several places in the Library of Congress document, it is implied that to enact S. 364 would impose complicated and onerous bookkeeping procedures upon the Forest Service. Undoubtedly, procedural problems will occur, but there is no reason to believe that once procedures are worked out the process could not become quite routine. Forest Service timber sale accounting procedures already identify, for each timber sale, the amount of Purchaser Credit which is earned but not used. Because of this, it would seem to be a relatively simple matter to develop a procedure for transferring this amount to other timber sales under contract to the purchaser on the same National Forest.

In the last paragraph on page 17, the issue is raised that "unused" credit might be carried on the books for long periods of time, presumably creating some administrative problems. This will likely not be a difficulty since purchasers will have a great incentive to use the credit at the earliest possible time, and thus making more effective use of their capital. This is the primary purpose of S. 364. There is little likelihood that Purchaser Credit would be carried on the books longer than it would take to utilize it on the sale in which it was developed. This is the situation as it exists today.

On page 18, it is implied that S. 364 would be beneficial only to "larger and regular purchasers of National Forest timber in contrast to smaller purchasers." This is not so. Even small purchasers of National Forest timber commonly have several sales under contract at the same time and, thus, could take advantage of S. 364.

On pages 20 and 21, the difficulties inherent in establishment of a dual bid system in which road costs would be bid separately from product value were discussed. There is no question that such a system would be undesirable. However, the inference that S. 364 would be a step in the direction of establishing such a system is not so. There is no proposal to change the existing procedures for appraising and bidding timber sales, including associated road costs.

Mr. RICHARDS. Thank you, Carl. Mr. Chairman, this completes our prepared statements. We would be pleased to answer any questions you might have. We would ask that, in addition to the panel members, we could also call on the staff members present in answering these questions.

Senator McCLURE. We have statements from the Western Forest Industries Association and the National Forest Products Association. Do you want to give those statements at this time or do you want them to be made a part of the record?

Mr. RICHARDS. No. We will just make those a part of the record.

Senator McCLURE. Those will be made a part of the record immediately following the statements you have just made. (See pp. 38-66.)

I have just a couple of questions. First of all, it has been suggested that if the bill is passed, that the earned but unused credits will immediately be consumed in what would otherwise be cash sales and therefore the Treasury receipts would be reduced by the amount of the unused credits.

I think at least one of the statements indicated that not the entire amount of credits would be used. I think Mr. Gaskins, in your prepared statement on behalf of the Western Forest Industries Association, you indicate that for several reasons not all of the earned but unused credits would be immediately applied to the purchase products of timber which otherwise would be paid in cash.

Do you have any hard figures as to the amount of unearned unused, earned but unused credits might be used within this fiscal year to pay for timber which otherwise would have generated cash flow to the Treasury of the United States?

Mr. RICHARDS. Wayne, do you have that?

Mr. GASKINS. I think Mr. Bendix, Mr. Chairman, had the reference in his statement, also.

Mr. RICHARDS. Carl, do you have figures on that?

Mr. HAKENSON. Perhaps Gerhardt could answer that.

Mr. BENDIX. The figures we have, of course, are for one individual company. But in our own case, which might be typical, we feel that at one time the maximum of these earned but unused purchase credits that would have been transferred would have been approximately 30 percent of the total. Of over \$400,000 that we earned during the year, a total of approximately \$149,000 would be transferred.

If I can elaborate further; by this time of year, this amount would have been cut down by another 50 percent. So that as of this moment, should this bill become law, we would transfer perhaps \$74,000 to apply against stumpage payments.

What it would do for us would be to enable us to build roads well in advance of logging. It would enable us to put another contractor to work if we could solve the cash flow problem that this policy creates.

Senator McCLURE. So you are indicating for your company it might amount to 15 percent?

Mr. BENDIX. Correct, sir.

Senator McCLURE. I think Mr. Hakenson used the figure of 20 percent.

Mr. HAKENSON. Yes, sir.

Senator McCLURE. Would others of you have any reason to agree or disagree with those estimates?

Mr. RICHARDS. Senator, our best estimate was 30 to 40 percent. I think the most important thing is the flexibility that it would give us to get through markets such as we have seen during the last 12 months. A large company, of course, during these periods can fall back on private timber that is lower priced.

If this bill is passed, it would give us more flexibility to expedite completion of forest service contracts. I think that is important.

Senator GRAVEL. Using that as a conclusion, we could say this legislation actually is more advantageous to the smaller loggers than it would be the larger ones who have easier access to capital. They can go to a bank and borrow it because they are bigger and they have a better financial base. When they say that at least the Forest testimony is that the reason the bill inures to the benefit of the large guys is because many of the small guys don't have two sales within one forest.

If they had some money available now the smaller operators might have two sales because they could buy into another sale. That probably would be what would happen, would it not?

Mr. RICHARDS. That could be.

Senator GRAVEL. So we could conclude that under some circumstances this plan would create more competition within the industry rather than lessen the competition or be an advantage to one group or another.

Mr. RICHARDS. Correct.

Senator GRAVEL. Thank you, Mr. Chairman.

Senator McCLURE. I suspect that each of you would really prefer a system under which you are paid for your construction on a project completion basis, wouldn't you?

Mr. RICHARDS. We certainly will.

Senator McCLURE. That would be consistent with the practice that would occur if the Forest Service were to contract for the construction of the road directly. They would pay as the road was being constructed. They would make progress payments, and upon the final inspection and completion of the road, they would pay the full amount of the contract price. It is only in the vent that it is merged into the price of the timber under contract for the sale of timber, in which this is a requirement of the sale, that they escape having to pay for it as the road is built.

I assume that each of you would find it much easier for yourself under the circumstances that you built the road and they paid you for the road as it was built.

This legislation doesn't seek to go that far. It seeks only to allow you to use that as against other sales on the same forest.

Senator GRAVEL. Would the Senator yield?

Senator McCLURE. Sure.

Senator GRAVEL. I would like to make that point very clear. All I saw was some heads nodding. I would like a little bit more affirmation on that because I think what may develop is an effort to reinstate within the rural highway program the appropriated method of building roads. Would that be something that you, from industry, would feel would be beneficial?

Mr. RICHARDS. Mr. Hall?

Mr. HALL. The industry has long supported additional appropriations to have forest roads constructed by the Government with appropriated funds. The two Public Works Committees have been extremely helpful over the years in keeping the authorization level for these funds at a high level, much higher than the administration has requested, or the Appropriations Committees have allowed.

Appendix D to my filed statement has a chart prepared by Mr. Tollenaar, who is a subsequent witness this morning which presents in graphic form the authorization level approved by this committee and the appropriation level sought by the administration and provided by the Appropriations Committees.

In summary to your question, we would support increased appropriations for forest road construction and would urge your committee to take a close look at the design standards and the financing of National Forest road construction because we do think it needs your attention.

Senator GRAVEL. Thank you.

Thank you, Senator McClure. I just wanted to make that a part of the record.

Senator McCLURE. Maybe the record should also indicate that, as I asked the question, there were several heads nodding. It was unanimous at the table.

Senator GRAVEL. Is there any objection to that statement? Was it unanimous?

Mr. HALL. No objection whatsoever.

Senator GRAVEL. Those little points are very important when we get into debate.

Thank you.

Senator McCLURE. Thank you, Senator.

One statement listed contracts on one forest. What is the general pattern of your operations within a national forest? How many contracts will you have pending at one time on the same forest?

Mr. SAISER. My company, Fort Vancouver, presently has 14 timber sales contracts on the Gifford Pinchot National Forest.

Mr. RICHARDS. We would generally have six to seven on one national forest.

Mr. HAKENSON. The 10 I referred to are on three national forests. I am not sure of the breakdown.

Senator McCLURE. They range something on the order of 3 to 4 per national forest to a high range of 14. When we are talking of transfers, this is the number of sales upon which transfers might be made under this legislation.

Senator Domenici?

Senator DOMENICI. Might I first ask, Mr. Chairman, in our information for the day we have some background information of financing national forest roads for county governments, prepared from a meeting in Albuquerque, N. Mex., March 19 through 21.

Was this going to be made a part of the record? Did I miss that at some point?

Senator McCLURE. It has not been made a part of the record but it will be made a part of the record. (See p. 78.)

Senator DOMENICI. I believe it should. I think the chart is extremely relevant with reference to the approved obligation level and the authorizations that we in Congress have made, especially in the year 1974 where there is a disparity of some \$45 million between what was authorized and what was spent?

Senator McCLURE. I think that is the same chart that appears in the national forest products.

Mr. HALL. No. He is referring to the document which will be submitted, I understand, by Mr. Tollenaar, who is our next witness.

Senator McCLURE. I think the chart is the same.

Mr. HALL. No. He is referring to the chart on page 4. I had reproduced the chart on page 10 of Mr. Tollenaar's document.

Senator DOMENICI. If Mr. Tollenaar is going to use this, I see no reason to necessarily make it a part of the record at this point, just so it is made a part of the record before we conclude.

Mr. Hakenson, let me ask you with reference to your statement as it pertains to your company, it has come to my attention over the last 12 to 14 months that in the same county that you are referring to in New Mexico where your company has had to cut back operations, that a number of small operators have both cut back and a number have closed up completely. I guess you are aware of those?

Mr. HAKENSON. Yes; I am.

Senator DOMENICI. These are all in the same county, a very high unemployment area.

I know you don't purport to speak for all of them, large and small, although you have made reference to the fact that you have found no objections to this bill. But could you elaborate a bit in that area that you have referred to, New Mexico and the Winslow office area?

Would this bill inure to the benefit of the so-called small operators as well as Duke City?

Mr. HAKENSON. I sincerely believe that it would. The companies that I have personally contacted along these lines have certainly given me their assurance that they would support the bill. I know of no company that has any other feeling other than total support.

Senator DOMENICI. It is true, is it not, that along with other problems, that those small operators have run into a cash flow problem and cannot arrange long-term financing. Isn't that what you find to be their basic problem?

Mr. HAKENSON. Yes, sir. I certainly do. The two companies you refer to which have closed their operations permanently, I cannot speak for them as to the reason for their closing.

They were dependent on national forest timber. For one reason or another, they have ceased to operate. I assume that financing had a great deal to do with that.

Senator DOMENICI. In your statement you have attempted to analyze the impact on county funds.

Could you explain to us in a little more detail the statement that based upon the previous year, there would really only be a one-time 20-percent effect?

I don't think I quite understand because of the technicalities, what you are telling us there.

Mr. HAKENSON. Yes, sir. For example, in New Mexico we have the Carson, Cibala, Gila, Apache, Lincoln, and Santa Fe Forests.

The Forest Service sent a questionnaire to the Santa Fe Forest, regarding the use of purchaser credit road moneys. The Santa Fe was asked to estimate the amount of purchaser credit unused as of June 30, 1975.

The Santa Fe Forest responded and Mr. Kulosa, of the Federal Timber Purchasers Association, also contacted all of the other forests that I have mentioned. We found that a total of \$712,761 is earned purchaser credit, but unused as of June 30, 1975.

I took 25 percent of that because the counties would receive 25 percent of that amount. That is, roughly, \$178,000. The counties in New Mexico received \$903,000 in 1974. Therefore, the maximum reduction would be approximately 20 percent of the total. This would be a one-time effect.

Senator McCLURE. May I interrupt?

Senator DOMENICI. Surely.

Senator McCLURE. That is assuming that all the unused credits were transferred.

Mr. HAKENSON. That is true, sir. I mentioned our sales are of short duration. These credits would not be held for long periods of time.

As we operate on the few sales we have we will be paying cash for stumpage in instances in which credit has been transferred. This would occur almost immediately in some cases.

Senator McCLURE. So that would be a maximum amount that could possibly be an immediate loss of revenue?

Mr. HAKENSON. Yes, sir.

Senator McCLURE. It would be made up for by increased revenues on these other sales as timber was produced on those other sales?

Mr. HAKENSON. Yes, sir.

Senator DOMENICI. A general question to any of the witnesses who may want to answer this: I note in reading some of the general background materials that in some instances you build your own roads and in some instances you contract out to contractors to build the roads.

Could you give us some idea over the last 3 or 4 years as to how this particular breakdown of doing it yourself or contracting it out has been?

Mr. RICHARDS. In our case, over the last 3 or 4 years 100 percent has been subcontracted.

Mr. SAISER. My company has contracted 100 percent also.

Mr. BENDIX. Ours does, too. We don't build any roads ourselves. It is all subcontracted.

Mr. McDOWELL. Even the larger companies that in the past have been in the practice of building timber sale roads themselves have now found the roads to be of such magnitude that they have had to hire contractors who build highways to come in and build roads for them.

We have a timber sale in the Idaho Panhandle National Forest, which has an allowance of over \$800,000 for purchaser credit. Over \$80 per thousand for that road. That requires a contractor who can handle that kind of work.

Senator DOMENICI. I may be wrong on this next question, but from the material I have been reading, I understand that sometimes the Federal Government comes in and builds all or part of the road. Is that true or not?

Mr. RICHARDS. Mr. Hall?

Mr. HALL. Under Public Law 64-657, which this committee was instrumental in getting enacted in 1964, the purchaser is required only to build to that road standard needed for a prudent operator to harvest the timber. That amount of money is deducted from stumpage payments in the form of purchaser credit. Public Law 88-657 also allows roads to be built by the purchaser if the Federal Government supplements the purchaser's activity in some way.

The Forest Service has elected, rather than give the purchaser cash, to pay for the difference in road standard between what they seek on the area and what the prudent operator standard of the road would be either to perform some of the services or to provide some of the materials. This is frequently in the form of culverts and pipes which are a major expense item.

These are so-called purchaser road supplements and are shown in that chart that I appended to my statement—from Mr. Tollenaar's report. The amount of purchaser road engineering and supplements has increased over the years.

This again is money appropriated, provided in the form of materials or services to the purchaser, for a portion of the road representing the standard to which he is required to build it higher than that necessary for the removal of timber alone.

Senator DOMENICI. But you have no complaint at this point in time with reference to how much they are attributing to the statutory obligation to you and how much they are picking up from whatever the outside source?

Mr. HALL. For the purposes of this hearing, we are not addressing that issue. That is one of the several other issues that we would encourage the committee to look into at an early date.

Senator DOMENICI. Thank you, Mr. Chairman.

Senator McCLURE. The statement is made at one point that the unused but earned road credits at any given time are about equal to one year's average road construction budget. Would you agree with that estimate?

Mr. HALL. Looking at the chart again, which is about the best data we have, the purchaser credit anticipated in 1975 was \$200 million—excuse me, \$190 million. With the Forest Service appropriated construction running about \$25 million.

Senator McCLURE. I was not referring to the budget of the Forest Service. I was talking about the road construction costs that you have on your contracts.

Mr. HALL. That would be the purchaser credit figure of \$190 million.

Senator McCLURE. Is that about equal to 1 year's road building schedule under a typical operator's budget?

Mr. RICHARDS. In our experience it is less than one year's.

Senator McCLURE. Less than 1 year?

Mr. RICHARDS. Less than 1 year.

Senator McCLURE. Would any of the rest of you care to comment on that?

Mr. McDOWELL. The fact that it is escalating so rapidly really makes it very difficult to get any kind of a handle on whether it is 1 year.

I would say give or take, it is fairly close to that, to 1 year, and it may be a shorter period, say 9 months, depending upon the operating season where the operator works.

Senator McCLURE. I have no further questions.

Mr. Gaskins?

Mr. GASKINS. Mr. Chairman, first I would like to address a question that Senator Domenici directed to our friends from New Mexico. I am with a timber trade association representing small operators in your State.

I want to assure you that those small operators that are still in existence would certainly welcome the opportunity to improve their cash flow, and get their money free of the roads that they currently have built, from which they cannot now recover their capital.

The other thing, Mr. Chairman, that bothered me significantly this morning was the Forest Service's response that they had not had time to adequately develop the data that you and Senator Hart and Senator Gravel have asked for. This is hard to understand since we have seen this type of proposal introduced since July of 1972.

I don't quite understand why they did not have more time to prepare. The other question that you asked was whether the amount of dollars represented in this \$180 million would represent 1 year. I think that at the rate of current road construction it represents something less than a year.

In response to your other question regarding how much purchaser credit might be transferred, the Duke City testimony is very good in that the company operates on three or four national forests with just two or three sales on a national forest.

A great deal of purchaser credit would not be transferred. Even though a large amount might be transferable, much of it would not be transferred.

Our association is concerned with two other points. One is the opportunity to recover some money now to start roadbuilding and reduce the current unemployment that we are now experiencing. We would like to get the roads in place for the next improvement in the lumber market so that when we do have an improvement we will have the roads in place and be ready to respond to the national need.

Senator McCLURE. I think that is important because, as we all know, the number of housing starts has dropped dramatically in the last 18 months to 2 years. We hope that it will increase as dramatically.

Our national housing goal was 2.5 million housing starts per year. We never quite attained that. But we are less than half that at the present time.

If we are going to get back up to the 2 million starts per year, almost double what we are doing now, it will require some additional operations on the national forests of this country.

I think it would be a good national policy to have some preliminary work done so that we are ready to move in there very quickly because otherwise there will be a tremendous shortage of lumber if we get that rapid increase and that will bid the prices up much more rapidly than if indeed roads are in place and contracts are ready to be performed and there can be an orderly flow of lumber to the market.

I think for a number of reasons, it makes good sense to have an orderly program going forward during this period of time while the

lumber market is depressed and while the housing market is depressed in anticipation of what many people in the industry say will be a shortage in not too many months from now.

So I think it makes good sense. But if we expect you people to put up the money, then certainly you have got to have a way of getting it back or at least a way in which you don't have to go out and borrow it and leave it invested while we wait for that market to turn around.

Senator DOMENICI. Mr. Chairman, that last statement—it didn't make sense to me then and still is short some facts—nobody testified that they would be building some roads that they aren't now building if this credit situation was allowed. At least I didn't hear them.

Mr. GASKINS. I think Mr. Saiser indicated that they would be. I recently called one of our members who has a large Forest Service road project.

The contract, it is a new contract, will terminate in 1981. I said, "How soon are you going to start building?" He said, "We won't be in there until 1977 or 1978, but if you can get the road credits transferred, I have a contractor ready to go right now."

Senator DOMENICI. So what you are saying is that because of this exceptional advance of outlays of capital that you can't get back that you are deferring the building of roads to the last possible time under the contract rather than expediting the construction. Is that correct?

Mr. GASKINS. Yes, sir. This is particularly true of our membership which is comprised of small, independent manufacturers. We just don't have extra money that we can allow to be tied up for a year or 2 or 3.

I have other examples. I just mentioned one. This is a very significant thing for our people. The other point that I have made in written testimony is we would like to put the road in place in advance of logging, not only so that we can respond to the marketplace but for the very good of the land itself. It doesn't have as much disruption of the land. We get the road in place, get it settled before we ever use it.

Senator DOMENICI. You made that point in your testimony.

Mr. GASKINS. Yes, sir.

Mr. BENDIX. If I may be permitted to address myself to that question, Mr. Chairman. There is another good valid reason. If we can contract for the road immediately after having purchased the sale, there is a much better opportunity to get the road built for close to its estimated cost than if we have to defer it, due to the rapidly increasing costs of all goods and services. We have had the experience that roads that we could have built at the time that the contract was awarded later cost us as much as 27 percent more than the contract cost. The last increase was even greater for the materials which we were required to supply.

There is presently no way in which we can finance the construction of the road immediately. If this bill were passed there would be a vehicle that would permit us to build roads much more promptly.

Senator McCLURE. I want to thank you all for your testimony. I think your composite testimony makes the case very well. I will see that OMB gets a full transcript.

Thank you very much.

The next witnesses are a panel from the National Association of Counties, Mr. Jim Evans, and Ken Tollenaar, and Ray Doerner. Would you come forward, please?

I would state that Senator Packwood had intended to be here. He was unable to be here at this precise time. He has a prepared statement in support of the legislation which will appear immediately following the statement of Senator Ted Stevens, which was included in the hearing this morning.

Gentlemen, if you will introduce yourselves, you may proceed as you wish.

NATIONAL ASSOCIATION OF COUNTIES PANEL

STATEMENT OF RAY DOERNER, COUNTY COMMISSIONER, DOUGLAS COUNTY, OREG., ACCOMPANIED BY KENNETH TOLLENAAR, DIRECTOR, GOVERNMENTAL RESEARCH, UNIVERSITY OF OREGON; JIM EVANS, LEGISLATIVE REPRESENTATIVE, NATIONAL ASSOCIATION OF COUNTIES, WASHINGTON, D.C.

Mr. DOERNER. I will introduce myself and the other members of our panel. My name is Ray Doerner, county commissioner, from Douglas County, Oreg.; Jim Evans, staff member from the National Association of Counties, and deals in the field of public land matters; on my immediate right is Kenneth Tollenaar, previously referred to here. He is the director, Bureau of Governmental Research, University of Oregon, and has done extensive research for the counties and many of these kinds of matters.

Before I start, Mr. Chairman, I would like to state that certainly I appreciate the committee's concern over an issue of this kind that is extremely important in many of the heavily forested counties such as mine, and since I have been here this morning, I particularly appreciate the committee's deep concern for the counties' involvement in the fallout that may affect the counties if such legislation is passed.

We appreciate their concern greatly.

I am also presently chairman of the Public Lands Subcommittee of the National Association of Counties. Even though NACO has not had the opportunity to establish a legislative position on SB 364—this has come about because it was rather late, rather recently that this matter has come to our attention—I am confident that what I have to say in behalf of Douglas County, Oreg., would also be the position of most of the forest counties that belong to the National Association of Counties.

My home county, Douglas County, Oreg., contains slightly more than 3 million acres—nearly 80 percent is prime timberland and over half of that is in Federal ownership.

As a member of the governing body of such a county, I along with my fellow commissioners, are cognizant of and constantly concerned with the state of the wood products industry. We know, as county officials, that the National Forests mean much more to us than just the 25 percent cash payments from timber sales.

The economic well-being of the timber industry is vital to our communities' economic and social stability. Our official policy has always been to assist and encourage all segments of the production-harvest chain to the end that there will be the maximum of flexibility and a minimum of constraint, consistent, of course, with sound policies to protect both the county treasuries and the Federal Government.

We believe that the provisions of S. 364, if enacted, will relieve certain unnecessary financial burdens presently encountered by many timber purchasers. We believe that the relief of those burdens will, in the long run, benefit the counties' 25 percent fund, the Federal Treasury, and particularly the sound management of the timber resource.

The opportunity of purchaser credit transfers will free up some much-needed credit to effectively operate on other timber sales within each forest.

We know of instances where purchasers are actually delaying the construction of the necessary roads until the last minute before harvest to avoid the tieup of their dollars. This condition causes unnecessary fluctuation in local employment conditions.

It is our understanding that S. 364 is so written that there is no possibility of actual loss of revenue to the counties. At least we trust that is so.

However, we are aware and concerned that a portion of the 25 percent funds due the counties may be temporarily delayed. The full scope of this delay is not clear to us at this time. We believe that the added flexibility afforded to the purchasers will result in higher bids and more efficient operations—both to the credit of the counties and the Nation and will probably more than offset the inconvenience of the temporary delay in payment of the 25 percent funds to the counties.

Considering some of the testimony here today, we too would certainly appreciate some good hard facts and the true impact of this before we would make that statement as firm as I have previously indicated.

I strongly suggest, however that the passage of S. 364, desirable as it may be, should not be considered as the ultimate solution to the road construction problem. The problem has been greatly magnified in recent years by the Forest Service's increasing dependency upon the timber purchaser for the construction of its roads rather than by direct government financing.

Recent studies by the NACO and others indicate that over the past few years there has been a rapid increase in the use of the purchaser credit method of road construction and a corresponding decrease in the use of appropriated funds. Such a change may have some very attractive short-term benefits to the cash-flow problems of our Nation's treasury, but it may also be a poor way to manage a resource.

Preroading the forest (1) insures more competitive bidding, (2) leaves roadbuilding to roadbuilders, and (3) provides the counties with the full 25 percent that the National Forest Act originally intended. This is particularly true where the roads are built to standards that accommodate uses other than timber harvest.) I do not mean to imply that all roads should be built by appropriated funds—spur roads that apply only to the particular sale involved should obviously remain an obligation of the harvester.

In summary, I believe that the favorable effects of allowing the transfer of credits will add stability to the industry and will indirectly find their way into the future bidding process, all to the advantage of the counties and the Federal Government.

I will ask Jim Evans to comment further.

Mr. EVANS. Mr. Chairman, I would like to point out that in addition to Commissioner Doerner's statement, we have a copy of the county platform, our formal position on National Forest road construction that we would like to submit for the record.

Senator McCLURE. It will be made a part of the record.

[The document referred to follows:]

NATIONAL ASSOCIATION OF COUNTIES

COUNTY PLATFORM

8.45 Forest Access and Grazing Lands Roads.—The federal government should increase its participation in the construction and maintenance of forest roads and roads on grazing lands. Road construction, within these areas, by timber purchasers should be directed toward only those roads required for flexibility in their operations. These forest access roads should be constructed and maintained to the appropriate standard for harvesting timber and for maximum utilization of other resources and these forest lands.

Mr. EVANS. We also have a background paper, prepared by Mr. Tollenaar, that has been referenced already. We would like to submit that for the record.

Senator McCLURE. It will be made a part of the record.

[The document referred to follows:]

FINANCING NATIONAL FOREST ROADS:
BACKGROUND INFORMATION FOR COUNTY GOVERNMENT POLICY

(Prepared for discussion at the National Association of Counties' Western Region Conference, at Albuquerque, New Mexico, March 19-21, 1975.)

Road Systems Serving the National Forests

Road systems serving the National Forests are of two broad types. First, the forests are served by systems which are primarily intended to carry traffic through the forests between points outside the forest boundaries. These systems include the federal aid interstate, primary and secondary system, the federal aid Forest Highway System, and miscellaneous state and county roads not on any federal aid system. Except for the state and county roads, these systems are financed from the federal highway trust fund, plus state matching, and thus are primarily funded by user taxes and fees.

The second type consists of Forest Development Roads and Trails, which federal law defines as:

...those forest roads or trails of primary importance for the protection, administration, and utilization of the national forests, or where necessary, for the use and development of the resources upon which communities within or adjacent to the national forests are dependent. (23 USC 101)

Forest Development Roads and Trails provide access to National Forest resources, including timber and recreation areas, and otherwise provide for protection, utilization and management of forest resources. Draft material being proposed for inclusion in the Forest Service Manual would classify Forest Development Roads as follows:

1. Arterial Roads. These provide service to large land areas and usually connect with public highways or other arterial roads to form an integrated network of primary travel routes. The location and standard are often determined by a demand for maximum mobility and travel efficiency rather than specific resource management service. They are usually developed and operated for

long term land and resource management purposes and constant service.

2. Collector Roads. These serve small land areas and are usually connected to an arterial or public highway and collect traffic from service roads or terminal facilities. The location and standard are influenced by both long term multi-resource service needs as well as travel efficiency. Collector roads may be operated for either constant or intermittent service, depending on land use and resource management objectives for the area served by the facility.
3. Service Roads. These roads connect terminal facilities with collector or arterial roads or public highways. The location and standard are usually determined by that required to serve a specific resource activity rather than travel efficiency. Service roads may be developed and operated for either long or short term service.¹

Figure 1 illustrates each classification of Forest Development Road.

Methods of Financing Forest Development Roads and Trails

In the long run, the burden of financing the construction and maintenance of forest roads and trails is borne by the timber, consumers of forest products, and the general taxpayer. In the short run, however, financing comes from two main sources: (1) direct government financing, and (2) indirect financing from the purchasers of National Forest timber who are allowed credits against the price of the timber in return for financing the costs of the roads. The choice of financing methods has numerous consequences which are discussed in the final sections of this paper.

Direct Government Financing

Most of the direct government financing for Forest Development Roads and Trails is authorized under the biennial Federal Aid Highway Act. Unlike most of the appropriations authorized under the Highway Act, the Forest Roads and Trails appropriation comes from the general treasury rather than the highway trust fund.

1. U.S. Forest Service, Division of Engineering Management, untitled paper, n.d.

Figure 1
 FUNCTIONAL CLASSIFICATION OF
 NATIONAL FOREST ROADS



Source: U.S. Forest Service

The other major source of direct government funding is the "ten per cent fund" established by 16 U.S. Code 501, which requires that 10 per cent of the receipts from the National Forests be spent for roads and trails within forests located in the states from which such proceeds are derived. In addition to funds authorized under the Highway Act and ten per cent funds, a relatively small amount of additional direct government financing is derived from miscellaneous sources, including funds contributed by users under maintenance agreements, a special allocation of receipts from timber sales from certain Oregon and California land grant lands within National Forest boundaries, and emergency funds for the repair of storm damage.

It should be noted that Forest Service road and trail obligations--the amount the Forest Service is actually allowed to spend from government funds¹--has, at least in recent years, been considerably less than the sum of the authorization, plus 10 per cent and "other" funds. Amounts authorized for the past ten years, along with the approved obligation level, are shown in Table 1.

Table 1

GOVERNMENT FINANCING AVAILABLE AND APPROVED OBLIGATION
LEVELS, NATIONAL FOREST DEVELOPMENT ROADS AND TRAILS
1967 to 1976

(millions)

	<u>1967</u>	<u>1968</u>	<u>1969</u>	<u>1970</u>	<u>1971</u>	<u>1972</u>	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>
<u>Authorizations:</u>										
Highway Act	\$ 85.0	\$170.0	\$170.0	\$170.0	\$170.0	\$170.0	\$170.0	\$140.0	\$140.0	\$140.0
Ten Per Cent	16.8	17.5	20.9	31.2	28.8	22.7	33.9	45.5	47.0	48.9**
Other	<u>1.4</u>	<u>1.8</u>	<u>3.8</u>	<u>11.9</u>	<u>11.3</u>	<u>8.4</u>	*	*	*	*
TOTALS	\$103.2	\$189.3	\$194.7	\$213.1	\$210.1	\$201.1	\$203.9	\$185.5	\$187.0	\$188.9
<u>Approved Obligation:</u>										
	\$118.4	\$122.7	\$120.4	\$163.8	\$175.1	\$170.8	\$160.3	\$140.2	\$171.1	\$158.3***

- * Information not available.
 ** Estimate.
 *** Requested.

1. Further discussion of obligations is presented below, pp. 5-7.

Financing Purchaser Construction

A second method of financing Forest Development Roads and Trails, utilized increasingly in recent years, is to require purchasers of National Forest timber to build roads which provide access to sale areas. When purchasers are required to build roads, the Forest Service credits the purchaser's account with the estimated cost of the road construction. When this method of financing is used, the Forest Service ordinarily does the pre-sale engineering and supervises the work, while the purchaser does the work with his own crews and equipment or hires a road contractor to do it. The Forest Service may supplement purchaser credit financing with direct government funds under certain circumstances. Under federal law,¹ purchasers can be required to participate only to the extent that would be necessary to provide access to harvest and remove the timber from the particular sale. Any additional road width, base, safety features, etc., which are required to provide for uses other than logging must be financed from sources other than purchaser credits.

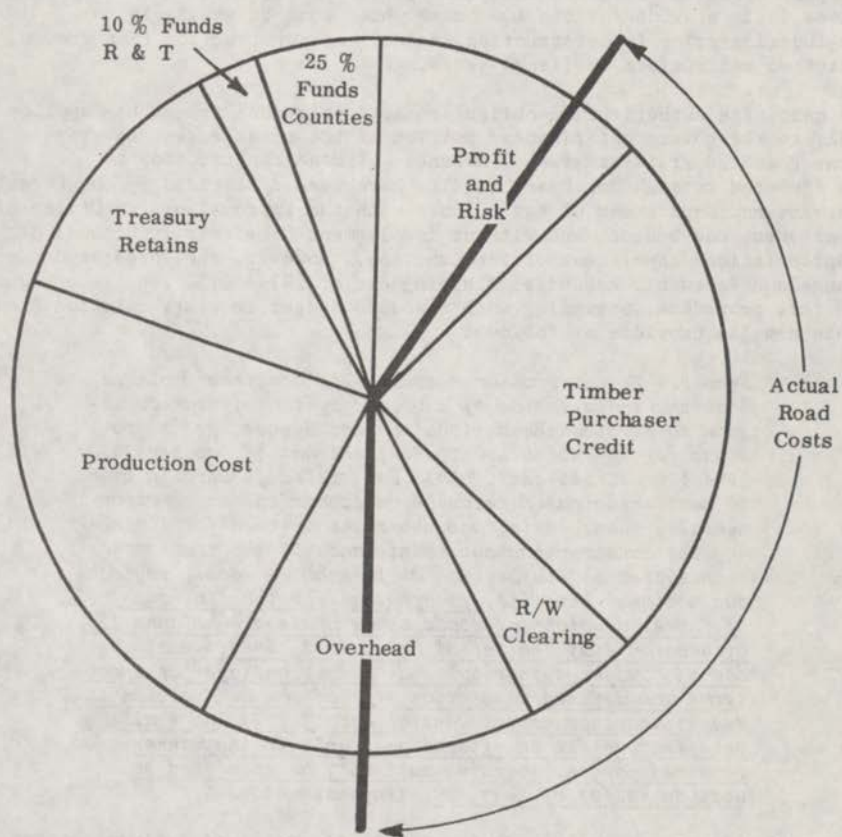
Figure 2 shows the division of the appraised value of stumpage among various payments and allowances, including the "timber purchaser credit" which is allowed when purchasers are required to build access roads. As indicated by this pie chart, allowances are made in the appraisal not only for the estimated per-thousand board feet cost of the actual road construction, but also the cost of right of way clearing and portions of the overhead and profit and risk allowance which are related to the base cost of the road construction itself. Dollars actually paid to the government for the timber may therefore reflect only a minor proportion of the total stumpage value--a fact of considerable concern to counties which receive 25 per cent of the actual Treasury receipts, not 25 per cent of the total stumpage value.

Budgeting Procedures

At the present time, development of the total National Forest Development Road and Trail program for each year involves both (1) biennial approval of an authorization level under the Federal Aid Highway Act by the Senate and House Public Works Committees; and (2) approval of annual program levels (obligations) by the House and Senate Appropriations Committees. Under federal law², National Forest Development Road and Trail authorizations are available for contract during the fiscal year preceding and for two fiscal years succeeding the year of authorization as well as during the year of authorization. Unobligated authorizations lapse at the end of the second fiscal year after the year of authorization, and they may be rescinded before that time upon recommendation by the President and approval by Congress. The sums appropriated are the

1. 16 USC 535.
2. 23 USC 203.

Figure 2
 SELECTED COMPONENTS OF APPRAISED VALUE
 OF NATIONAL FOREST TIMBER



Source: U.S. Forest Service.

dollars needed to operate a level of contract authority previously determined by the Department of Agriculture and the Office of Management and Budget, and thus actual appropriations made by the Congress for Forest Development Roads and Trails serve only the function of providing cash to pay off contracts made pursuant to obligational authority. The purpose of using obligations as contract authority rather than appropriations is to provide for the lead time which must be available for engineering prior to construction, as well as construction time frames which do not conform to fiscal years.

To date, the authorization-obligation-appropriation process has applied only to the government financed portion of the total Forest Development Road and Trail program. Amounts of road construction to be financed through purchaser credits have been determined by the Forest Service and Department of Agriculture with the approval of the Office of Management and Budget, and without involvement of either functional or appropriations committees of the Congress. However, the Forest and Rangeland Renewable Resources Planning Act of 1974¹ will require a change in this procedure, beginning with the 1976 budget request. Section 9 of this new law provides as follows:

Sec. 9. Transportation System.--The Congress declares that the installation of a proper system of transportation to service the National Forest System, as is provided for in Public Law 88-657, the Act of October 13, 1964 (16 USC 532-538), shall be carried forward in time to meet anticipated needs on an economical and environmentally sound basis, and the method chosen for financing the construction and maintenance of the transportation system should be such as to enhance local, regional, and national benefits, except that for the financing of forest development roads as authorized by clause (2) of section 4 of the Act of October 13, 1964,² shall be deemed "budget authority" and "budget outlays" as those terms are defined in section 3(a) of the Congressional Budget and Impoundment Control Act of 1974 and shall be effective for any fiscal year only in the manner required for new spending authority as specified by section 401(a) of that Act. (Emphasis added.)

The underlined language does not prohibit financing of National Forest roads through purchaser credits. However, it will force a review of purchaser road program levels by the Appropriations Committees along with their approval of the direct government financed program level. It will also require the department to justify any failure to use the full amount authorized by the Highway Act while proposing the use of purchaser credits for Forest Roads construction and maintenance.

1. Public Law 93-378; 88 Stat. 476.

2. Clause (2) of section 4 of the Act of October 13, 1964 refers to roads financed through purchase credits.

Trends in Road and Trail Financing

Table 2 and Figure 3 reveal some significant trends and shifts in Forest Development Road and Trail financing over the past decade. During the mid-1960's, the National Association of Counties, in cooperation with several other groups, successfully urged the Public Works Committees of the House and Senate to increase substantially the authorization levels for National Forest Development Roads and Trails. Congress increased this authorization from an annual level of \$30 million in 1961 to \$85 million in 1965, and again to \$170 million in 1968 and for several years thereafter. Although the full amount authorized was never obligated, the obligation level did rise substantially during the late 1960's and early 1970's.

For a period of two or three years, there was some shifting in the emphasis of the program from purchaser credits to direct government financing, a shift made possible by the increased authorization and obligation level. This shift is reflected in the amounts obligated specifically for Forest Service road and bridge construction which increased considerably in 1970 and 1971, reaching a peak of \$110.5 million in fiscal 1972. Purchaser credits increased at about the same rate as Forest Service construction during these same years, but not as rapidly as they would have to reach the same total program level had the Forest Service not programmed this large increase in direct government financed road construction.

However, the policy of increasing emphasis on direct government financing changed suddenly in 1973 and 1974 as the Administration tried to respond to new demands not only to increase timber production on government lands, but also to minimize cash drains on the federal treasury. Substantial increases in purchaser credits were allowed by administrative action during those years, and this required a drastic shift in the programming of government funds from Forest Service road construction to pre-sale engineering (location, surveys, plans and supervision) of purchaser road construction. The Forest Service's justification of its fiscal year 1974 budget request stated:

The \$44,697,955 program decrease has been made possible by shifting priorities to timber access and by assigning a greater degree of responsibility for this access to the timber purchaser.... The shift in the proposed fiscal year 1974 forest road and trail program from direct construction to support activities for timber purchaser road construction is a result of increased timber needs, and the need to reduce Federal outlays.¹

The relative emphasis on purchaser credits and de-emphasis on direct government financing has continued to the present time.

1. House Appropriations Subcommittee Hearings, Department of Interior and Related Agencies Appropriations for 1974, Part 1, p. 591 (93rd Congress, first session).

Table 2

ANNUAL OBLIGATIONS BY PROGRAM AND TOTAL AMOUNT OF PURCHASER
CREDITS, NATIONAL FOREST ROADS AND TRAILS
1967 to 1976

(millions)

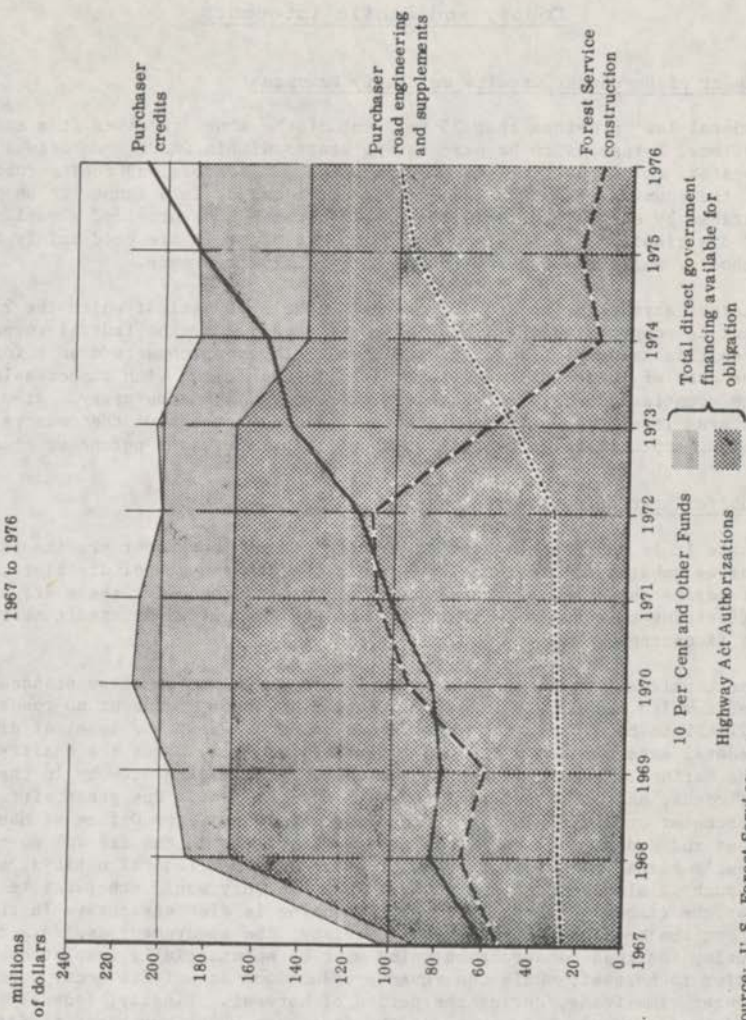
	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976
<u>Direct Gov. Financing</u>										
Road Construction	\$ 49.4	\$ 63.2	\$ 56.3	\$ 87.2	\$108.4	\$110.5	\$ 59.8	\$ 8.3	\$ 15.7	\$ 6.4
Bridge Construction	3.1	7.1	4.1	7.2	--	--	--	5.0	6.1	5.5
Subtotal, Forest Service Const.	52.5	70.3	60.4	94.4	108.4	110.5	59.8	13.3	21.8	11.9
Purchaser Road Engineering	20.4	20.0	22.0	22.2	23.0	23.4	39.6	70.5	85.2	93.4
Purchaser Road Supplements	4.5	8.0	4.7	6.6	7.6	7.8	9.2	3.3	8.2	6.8
Subtotal, Appropriated Funds spent on Construction by Purchasers	24.9	28.0	26.7	28.8	30.6	31.2	49.5	73.8	94.1	100.2
Maintenance, Trail Construction and Miscellaneous	41.1	24.4	33.3	40.6	36.1	29.1	51.0	53.1	55.2	46.2
TOTAL OBLIGATIONS	\$118.4	\$122.7	\$120.4	\$163.8	\$175.1	\$170.8	\$160.3	\$140.2	\$171.1	\$158.3**
<u>Purchaser Credits</u>	59.4	83.1	78.7	82.6	102.2	116.8	146.9	157.4	187.4	210.0***
TOTAL ROAD PROGRAM LEVEL	\$177.8	\$205.8	\$199.1	\$246.4	\$277.3	\$287.6	\$307.2	\$297.6	\$358.5	\$368.3
Exhibit: Purchaser Credits and Appropriated Funds spent on Purchaser Road Const. as per cent of Total Program	47.4%	54.0%	52.9%	45.2%	47.9%	51.5%	63.9%	77.7%	78.5%	84.2%

* Included \$15.6 million in flood and earthquake damage repair and reconstruction.

** Requested.

*** Estimated.

Figure 3
TRENDS IN NATIONAL FOREST
ROAD AND TRAIL FUNDING
1967 to 1976



County and Public Interests

Impact of Purchaser Credits on County Revenues

Federal law¹ provides that 25 per cent of the money received from each National Forest is to be paid to the states within which the Forests are located, to be used for the benefit of public schools and public roads of the counties in which the Forests are located, in a manner to be prescribed by each state legislature. The states have provided a variety of distribution plans. In some states the payments are used mainly for schools, while in others they are used mainly for roads.

Whether earmarked for schools or roads, the base against which the 25 per cent is computed is the amount of money received by the federal government. When this amount is reduced by allowing timber purchasers credit for the cost of roads built and maintained in connection with timber sales, the counties' 25 per cent receipts are reduced commensurately. At present program levels, counties and school districts throughout the country are losing approximately \$50 million annually by virtue of purchaser credits.

Public Interest Considerations

While it is indisputable that financing through purchaser credits involves substantial revenue losses for counties and school districts, it may be that from a general public interest standpoint there are some offsetting advantages in continuing to use the purchaser credit method of financing.

One consideration in this respect is that there may be circumstances under which the choice is between purchaser credit roads or no roads at all. This can occur when short range concerns about the level of direct federal expenditures supersede long range concerns about the quality of the National Forest transportation system, maximizing economy in the use of roads, and other public interest considerations. One great virtue of purchaser credit financing, from the standpoint of the Office of Management and Budget and others concerned primarily with the federal government's fiscal position, is that it reduces direct federal outlays, even though it also reduces the revenues the Treasury would otherwise receive for the timber. Purchaser credit financing is also attractive in the short run because the effect is immediate; the government avoids a cash outlay for road construction which must be substantially completed prior to harvest, while the revenue reductions it suffers occur over a longer time frame, during the period of harvest. Finally, federal budgeteers cannot be unaware of the fact that under purchaser credit financing, local governments are financing 25 per cent of the costs of

1. 16 USC 500.

the roads, even though, as noted below, direct government financing might create conditions under which competition for federal timber would increase and raise the price enough to offset the loss of this involuntary local government contribution.

Another type of consideration favoring maintenance of some level of purchaser credit financing is that some type of spur road construction and maintenance is operationally inseparable from the purchaser's harvest operations themselves. Many purchasers build and maintain these roads with the same personnel and equipment they already have in the sale area for their harvest operations, and they also need to control the timing and to some extent the location of such road work to coordinate their total operations.

While considerations of the federal fiscal position and the operational requirements of timber purchasers suggest that some level of purchaser credit financing will have to be maintained indefinitely, there are several reasons to believe that the ratio of direct government financing to purchaser credit financing should be considerably higher than it is now. Among these are reasons relating to road standards, competition for timber, road locations, and the public interest in effective Congressional oversight of agency operations.

Road Standards

As indicated above, federal law provides that purchasers are not required to bear that part of the road costs necessary to meet a higher standard than that needed in harvesting the particular sale timber harvest. roads are generally single-laned with temporary drainage facilities, surfacing and structures. Roads of this type would be inadequate to serve the multiple uses to which our National Forests are put today, including general public recreation use, as well as uses for forest protection and management. Since under law the extra cost of multiple use roads cannot be borne by the purchaser,¹ some direct government funding is required to assure that timber sale roads (which will inevitably be used for multiple purposes regardless of their actual standard or condition) are built to adequate standards.

Another aspect of the temporary v. permanent multiple use road issue is that long range transportation economies often favor construction of high standard roads, the added cost of which is offset over a long period of time by reduced per-mile user costs. A 1962 study by engineering personnel of the Forest Service's Region 6 concluded that if access roads in Region 6 could be built to planned standards from 1962 to 1983,

1. Many purchasers allege, however, that they are in fact required to build roads to higher standards than the minimum necessary for the particular sale. Although the Forest Service does not require the purchaser to bear the cost of double laning or paving, differences may arise over base requirements, environmental protection facilities, etc.

savings in maintenance and hauling costs alone would amount to \$329.5 million, as compared with construction costs of \$282 million.¹

Effect on Competition

As commercial timber available for sale is found to a greater and greater extent in the more remote areas of the National Forests and in more rugged terrains, the relative cost of road building increases, and larger and larger sales must be put up to insure that there will be sufficient revenue to offset the cost of the roads. While this is probably only one of several factors which has produced the observed decline in the number of small mills and logging firms, it may be a significant one. Small operators experience great difficulty in obtaining even the short range capital necessary to finance large road construction expenditures prior to the time when they begin to realize a return on the sale of their logs or lumber products. This not only forecloses opportunities for small businessmen, but it may in the long run have an adverse effect on the price the government can command for its timber.²

Effect of Improved Access on Management

So long as road construction must be financed primarily through purchaser credits, it seems axiomatic that roads will be located in areas where the most promising opportunities exist for commercial timber harvesting. This virtually precludes the possibility of advance roading -- a policy generally favored by professional foresters which calls for development of a permanent road network throughout a forest, designed and built without the constraints of "prudent operator" standards but with an eye toward full utilization of forest potentials and maximum long range economy. Several advantages are claimed for an advance roading approach, including the possibility of salvaging mortality from fire, wind and insect or diseases (estimated at about two billion board feet annually for the National Forests); the increased fiber production that can be obtained through intensive management practices such as pre-commercial thinning; and the dispersal of recreation usage to avoid overcrowding of established recreation areas. Direct government funding of road construction will be required if these objectives are to be achieved.³

1. "Need for Development of Main Line Access Roads - Region Six," n.d.

2. See, Walter J. Mead, "Memorandum on Competitive Bidding for National Forest Timber in the Douglas-Fir Subregion," (prepared for the U.S. Department of Interior, Bureau of Land Management), September 17, 1965, p. 8. See also the extended questioning and discussion of the effect of road requirements on small operators in House Appropriations Committee, Hearings, Department of Interior and Related Agencies Appropriations for 1975, Part 3, pp. 103-109, 93rd Congress, second session).

3. Appendix A of this report excerpts a brief discussion of advance roading from a paper prepared by Carl Newport, a forest economist with the Portland firm of Mason, Bruce and Girard, for the President's Advisory Panel on Timber and the Environment.

Accountability

There is, finally, an apparent public interest in having funding decisions applicable to government programs made by responsible organs of the Congress. The present method of programming National Forest road construction and maintenance with purchaser credits avoids Congressional scrutiny and constitutes what some have called "back door financing." The new Resources Planning Act will greatly reduce this problem beginning with fiscal year 1976. However, some related problems will remain. For example, 23 USC 205 requires the Forest Service to contract road work estimated at more than \$15,000 per mile, but this does not apply to roads built by timber purchasers. Many purchasers are now having road contractors do their road work (especially as the complexity of construction increases in rugged terrain and with pressure for higher standards from the Forest Service), but these contracts are not necessarily let under the competitive bid procedures required by public contracting laws.

Finally, there may be something of a problem of accountability in assuring that purchasers required to build roads do not make windfall profits on the road work in addition to their normal profits on the timber operation itself. At the present time, the purchaser credits are allowed on the basis of estimates made at the time the project is engineered, and there appears to be no way for the Forest Service to audit actual costs experienced by the operator with an eye toward adjusting the allowances made on the basis of the estimate.

Toward a NACO Policy on Forest Road Financing

The National Association of Counties has been aware for a good many years that counties are losing substantial amounts of revenue as a result of purchaser credit financing of National Forest Development Roads. During the mid-1960's, NACO concentrated on trying to persuade the Congress to increase the Roads and Trails authorization in the Federal Aid Highway Act, assuming that such increases would be followed by a shift from purchaser credit financing to direct government financing of access roads. While the data presented above indicate that some such shift did take place for a few years, it seems clear that increasing the authorization alone does not insure that the drains on county funds will cease, as is amply illustrated by events of the early 1970's.

Enactment of the Resources Planning Act of 1974 does appear to set the stage, however, for a reconsideration of this issue, and now the members and staffs of the relevant Congressional committees will be directly involved in the choice of financing methods. It would appear to be a good time for NACO to review its policies on National Forest Development Road financing and perhaps to take the leadership in suggesting an approach that would be beneficial not only to county government, but

also to the Forest Service, the timber industry and the general public. NACO's Western Regional District could develop a proposed policy statement at its March 1975 meeting in Albuquerque, for submission and adoption by the National Association at its annual convention in June 1975.

Without attempting to suggest the details of such a proposed statement, a few possible alternatives come readily to mind. One approach would be to try to develop a workable, functional classification of forest roads and to identify the types of roads most appropriate for each type of financing. For example, there would be little argument that purchaser credit financing is appropriate for temporary spur roads located within the immediate sale area. On the other hand, permanent, two-lane hard surface arterials that carry not only logs but also high volumes of recreation traffic should be financed with appropriated funds. In between these extremes lie a number of types of roads and a variety of circumstances which, considering both short and long range factors, might tilt the judgment one way or another. Some effort to define these considerations might be made jointly by the parties involved which could produce some guidance to those who must select the financing method.

Another approach, perhaps easier to implement, would be to reach some general "rule of thumb" guidelines on the approximate ratio of direct government to purchaser credit financing that would be most suitable to different types of National Forests. Obviously, forests which contain little commercial timber are inappropriate for purchaser credit financing. It is possible that a scale from minimum to maximum purchaser credit financing ratios could be worked out and applied on a forest-by-forest basis.

Various other approaches are possible, and should be considered. Another type of approach, which considers only the problem of the counties' revenue losses, would be to adjust the formula for National Forest revenue sharing to recognize that the 25 per cent provided by law no longer means the same thing it did when it was enacted in the early 1900's. For example, the law might be amended to increase the percentage figure or to require an additional payment from the Treasury equal to 25 per cent of the amounts programmed annually for purchaser road construction.

Prepared by:

Kenneth C. Tollenaar, Director
Bureau of Governmental Research & Service
University of Oregon

For:

Association of Oregon Counties and
National Association of Counties

Appendix AExcerpt from¹

"Timber Sales Policies and Procedures on National Forests
in Relation to Shortrun Timber Supply"

by Carl Newport

ROADS

"Roads are needed on national forests for expediting sales, increasing timber sale and harvest flexibility, and for improving utilization.

"Much of the time spent in selecting, planning, preparing, and operating timber sales is spent on roads. If the Forest Service were fully funded by appropriation for its road program and permitted to carry it out, the timber sale program would be expedited. Road construction by timber purchasers has limited road development to areas of high value timber and to periods of high prices.

"If a more complete road system were now in place on the national forests, it would be much easier for the Forest Service and the industry to promptly respond to fluctuations in demand for wood products. Submarginal timber could be sold, more partial cuts and more salvage and commercial thinnings could be made. In addition, more areas of timber needing treatment to increase growth would become accessible for such programs.

"Studies of advanced roading on national forests and on other public lands have concluded that it is not economic.⁶ However, these were tested against earning rate guides now being used on other Forest Service investments such as holding excess growing stock, K-V expenditures, and to some of the currently financed road program. Furthermore, these studies did not include the benefits of moderating lumber and plywood price fluctuations. In view of these factors the low earning rates of 2 to 6 percent for advanced roading appear to be more than sufficient justification for a significant program.

"It is recommended that the Forest Service more specifically document the cost of and resulting extra yield from more rapid roading on a forest-by-forest basis. This would provide the basis for grassroots pressure on Congress and OMB to get the necessary financing and would relate performance directly to extra timber supply, including the advantages of flexibility...."

⁶Payne, Brian R. "Accelerated Roadbuilding on the North Umpqua--An Economic Analysis." USDA Forest Service research paper, FNM-137, 32 pp., illustrates Pacific Northwest Forest and Range Experiment Station, Portland, Oreg., 1972.

1. Appendix G of Report of the President's Advisory Panel on Timber and the Environment, Washington, U.S. Government Printing Office, 1973, p. 222.

Mr. EVANS. The third document, in addition, would be an analysis of S. 364, some of the problems, clarifications that we think should also be made a part of the record, that Mr. Tollenaar will go into in just a minute.

Senator McCLURE. It will be made a part of the record.
[The document referred to follows:]



THE LIBRARY OF CONGRESS
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WASHINGTON, D.C. 20540

April 15, 1975

TO: The Counsel Senate Public Works Committee
 Attention: Barry Meyer

FROM: Robert E. Wolf, Assistant Chief
 Environmental Policy Division *Robert E. Wolf*

SUBJECT: S. 364 Timber Purchaser Credits, Forest Service Roads Built
 by Timber Purchasers

This bill would amend the Act of Oct. 13, 1964 to provide that for all timber contracts in existence on the date of enactment and all new contracts, an unused timber purchaser credit earned by performing road construction can be transferred from one contract to another on the same National Forest if certain conditions are met i.e., the cash payments for timber on the first contract can not be less than the sum of the credits transferred, and the value of the timber at base rates on the first contract.

General situation

National Forest timber is sold in 2 ways insofar as roads are concerned.

1. It lies along a road and can be cut and removed without road construction.
2. It is remote from a road and thus roads have to be constructed in order to remove the timber.

The second condition generally prevails. There are two ways that roads needed to remove timber are secured.

1. A road is designed by the Forest Service and a road let to contract, the award going to the low bidder. He constructs the road. In this system, on a road estimated to cost \$100,000, the builder would be paid at the end of each month on work performed plus invoice material on the job less 10% which is withheld for payment at the end of the job. However, when 50% of the work is done the amount withheld may be reduced to 5%.

2. Roads are also built by timber purchasers under a system which, in effect, reduces the price of the timber. It is to this aspect of securing roads that S. 364 is directed. The method by which this system operates will be outlined later.

There are several important elements to this approach that need to be understood in order to assess S. 364. The capsule history will depict the changes in the financing of road construction since shortly after the 1964 Act was passed. The year 1972 represents the high point in Gov't construction.

Program	1967	1972 million of dollars	1976	% change (greatest year)
Govt Construction Approp. funds	\$ 52.5	\$ 110.5	\$ 11.9	- 91%
Timber Purchaser Credits (TBR. REV. RED.)	59.4	116.8	210.0	+ 253%
Supl. with approp. funds to secure higher stds. TBR. Purch. Road	4.5	7.8	6.8	+ 51%
Total Timber Purch. Credit + Supl. (2 + 3)	63.9	124.6	216.8	+ 239%

Program	1967	1972 million of dollars	1976	% change (greatest year)
Total Constr. Approp. and TBR. REV. RED. (1 + 4)	\$ 116.9	\$ 235.1	\$ 228.7	+ 95%
Percent of Road Cost by Approp. fund Constr. (1 + 5)	44%	47%	5	
Percent of Road Cost by TBR. Revenue RED. (4 + 5)	56%	53%	95%	
Approp. Funds used to design, Engineer & Super- vise constr. of TBR. Purch. Roads	\$ 20.4	\$ 23.4	\$ 93.4	+ 357%
Total Road Constr. and Eng. Program	136.8	258.5	322.1	+ 135%

* * *

As the above shows the emphasis on the source of "funding" and the way roads are constructed has drastically shifted. Virtually no roads are built now by road contractors using direct contracts and appropriated funds. Virtually no roads are built for multi-purpose use; all roads are for timber. Virtually no roads are built in advance of timber harvesting to open areas where there are high mortality losses or to provide flexibility in scheduling timber sales, both as to type of timber to be cut and to meet emerging market demands. The burden of "financing" road construction has been completely shifted to timber-purchasers who construct roads under reduced timber prices.

In the long run, in one sense, it makes no financial difference, assuming all factors are equal, whether the road is built with appropriated funds or by reducing the price of the timber. The timber bears the cost. A timber ^{SALE} along an existing road is worth say \$300,000. If the same sale is remote from a road and it will require \$100,000 to build a road to get it, its "worth" is reduced to \$200,000. Thus if the Forest Service let a road contract with appropriated funds to build the road it would cost the government this sum plus the cost of the money until returned by the harvest of the timber. If the timber price is reduced by the estimated cost of the road the timber purchaser puts up the capital, builds the road and recaptures this cost when he harvest the timber. Included in the valuation of the timber is an allowance for profit and risk thus the timber purchaser is compensated. The theory is that in the second situation the timber also pays for the road.

However, under this approach not only does the timber manager lose the flexibility to most effectively develop a transportation network but also other disadvantages and diseconomies affect both the government (federal and local) and the timber purchaser. Some of these are:

- ...The timber purchaser must enlarge his working capital requirements.
- ...Smaller timber firms are less able to compete effectively for sales.
- ...Sales purchased can not be harvested at once subjecting the bidding to uncertainties as to future markets.
- ...The "cost" of the road is an estimate in the timber contract, not subject to the same treatment as a regular road contract. Thus it is never really known whether the actual cost of the road represents the estimate.

- ...Since the timber bid often is above the government's appraised value, and the principal business of the bidder is timber production, changing market conditions may cause efforts to build the lowest cost road as a part of reducing log costs, with attendant debate between the government and the logger.
- ...Federal timber revenues are reduced thus the base on which payments to countries of 25% of revenue as a payment in-lieu of-taxes is reduced. Thus the countries actually end up paying 25% of the cost of roads built by timber purchasers. In 1967 this impact was on the order of \$15 million. By 1976 it will be \$52.5 million revenue loss, a jump of 250%.
- ...From a forest manager's standpoint the Federal timber program has been reduced to planning sales in relation to road needs thus compounding the task of making plans based on silvicultural requirements.
- ...Sales must be of a species and type of timber, and an amount that will carry the initial costs of major timber purchaser road construction. Particularly in the Inland Rocky Mountain areas where Federal timber sites are at the lower end of growth potential and older stands have a very low growth rate, and there are heavy multiple-use demands, all resources and uses are tied to "operable timber."

The net effect over the past several years has been to shift from a policy and a program that struck a balance between direct contract and revenue reduction construction to one that is 95% revenue reduction construction. When the ratio of appropriated fund contract construction to timber purchaser construction was in the 50-50 range it was not keeping pace with the need to secure advance road construction to provide intensive and sound silvicultural management. Now that government construction is only 5% of the total, and half of that is bridge replacement (so it is really only 2 1/2 % of the total), the opportunity to secure improved management on the National Forests is further crippled.

An effective, planned transportation infrastructure is essential to providing for both the various commodity and non-commodity uses and to

realizing opportunities to secure and protect the natural resource potential on the National Forests.

It is against this background that the entire Forest Service Road and Trail Program needs to be viewed, including issues relating to levels of funding, and the programs of trails and programs of maintenance.

It is also of note that under P.L., 93-378, (16 U.S.C. 1601-10) provision was made in Sec. 9 (16 U.S.C. 1608) to view the issue of timber purchaser construction and appropriated fund construction as were authorized by the Act of Oct. 13, 1964. The 1964 Act codified the existing techniques by which roads were authorized for construction with the understanding that in legalizing the "timber purchaser" construction, it was intended that it would supplement the construction of multi-purpose roads with appropriated funds. In subsequent Highway authorization Acts the Public Works Committees continued to provide substantial authorizations, to urge and direct that full use be made of them and that the agency move away from placing the burden on timber purchasers.

However, the Highway Act authorization represents one of two sources of appropriated funds available for road and trail construction on the National Forests. Another source is the Act of Mar. 4, 1913 (16 U.S.C. 501). Under this 10% of National Forest Revenues are allocated to Roads and Trails in a manner that has no adverse impact on the revenue base that determines the payment of 25% of revenues to the Counties as a payment in-lieu of taxes (16 U.S.C. 500). As an operating budget policy the annual request^{is} for Road and Trail construction and reconstruction but also the annual cost for road and trail maintenance. This cost has run

from \$30 million annually to \$55 million annually. On top of this, again using the device of timber revenue reductions, timber purchasers also annually perform several million dollars of maintenance on roads. This is achieved by reducing the price of the timber. Finally there is a type of road construction and maintenance that does not show up in the above programs. On almost every timber sale there are some "roads" that are used only for harvesting the timber on that portion of the sale. They are usually dirt but may be gravel based roads used for a few weeks or months and then obliterated and seeded. While an estimate of their cost is included in appraising the timber value they are neither a permanent road nor a part of the "timber purchaser credit" concept. There are several million dollars worth of these "roads" also constructed annually but, unlike the roads that are involved in the issue, these are not capital improvements, but operating costs, since their utility expires with the removal of the timber.

The Timber Purchaser Credit System

Timber Valuation

The Forest Service values timber for sale on the stump by estimating averages. The volume and grade of the timber is estimated in terms of the products an average manufacturer might convert them to and an average value for a recent time period. The Service also estimates the average costs of manufacture in plants, transportation to plants, and logging, including the construction of both permanent and temporary

roads. In addition an average allowance for profit and risk is applied. The subtraction of costs plus profit and risk from value, exclusive of permanent road costs, determines the "value" of the timber as though the permanent roads were in. A second calculation determines the value of the timber including permanent road costs. This second amount represents the actual dollars that the purchaser will pay the government for the stumpage, assuming it is bought at the appraised price.

Purchaser Credit

In some cases the timber volume and quality when coupled with the costs, results in a very low, or even a negative, appraised price. Thus the Service applies a series of "Base Rates" which are amounts below which timber will not be sold. In sales where the timber value/cost relation is such that the appraised rate exceeds the minimum, the purchaser can expect to earn the entire "Road Credit" estimated in the sale. However, there are sales, and they are found more often in the Inter-mountain areas, where the appraised net value is so low that the advertised rate is raised to the "base rate." The result that is of concern here is that this has the effect of not granting to that purchaser full credit for the estimated cost of the road. The following examples illustrate how road factors interact with actual payments made.

Consider a basic situation which is a sale for 10,000 million board feet of timber which will require the construction of permanent roads estimated to cost \$100,000 or \$10.00/MBF. In sale "A" the appraised value/cost relation indicates that including road construction costs

stumpage has a worth of - \$2.00/MBF. Excluding road costs, its worth is \$8.00/MBF. The base rate for the species is \$5.00/MBF. The sale would be advertised at \$8.00/MBF with the requirement that \$5.00/MBF be paid in cash, that being the basic rate that must be paid in cash. Thus \$3.00/MBF would be the road cost. The timber purchaser would thus be required to pay \$50,000 for the timber or \$5.00/MBF in cash plus construct a road with an estimated cost of \$100,000. In theory his costs would total \$150,000. He would earn a "road credit" of only \$3.00/MBF or \$30,000 and "lose" a road credit of \$70,000 on a road estimated to cost \$100,000. In sale "B", the same conditions exist except that the purchaser bids \$15.00/MBF for the timber, exceeding the appraised price by \$7.00/MBF. In this situation he would pay \$5.00 MBF in cash for the timber and would "earn" the entire \$10.00/MBF road credit. His cost for stumpage and road would be \$150,000 and he would have no "unused" credit to apply to another sale. By bidding the sale beyond the appraised price his actual cash payment for the stumpage would be no greater in Sale "B" than it was in Sale "A." However, technically he would not have an unused road credit. Sale "C" has the same road cost and volume but the appraised value is \$20.00 /MBF. In this case he bids at the appraisal price, earns a road credit of \$10.00/MBF and pays cash of \$10.00/MBF. He would have no "unused" road credit. Sale "D" is the same as "C" but the actual volume cut turns out to be only 8,000 MBF, 2,000 MBF below the estimate. The Forest Service would be expected to get \$100,000 road and \$100,000 in cash. The purchaser would earn his full road credit, \$100,000. The Forest Service would get in cash only \$60,000, because the \$100,000

road estimate is guaranteed at this price level. Thus it would really get cash at \$6.00/MBF rather than \$10.00/MBF. Sale "E" is the same as "C" except that the sale harvest turns out to be \$12,000 MBF. In this case the purchaser earns his \$100,000 road credit. His payment to the Forest Service in cash is \$10.00/MBF for the first 10,000 MBF and \$20.00/MBF for the 2,000 MBF overcut, since the road cost is not applicable beyond the advertised volume. The Forest Service would thus get \$40,000 in cash plus the road estimated \$100,000.

Thus in only one of the cases, "A," does the purchaser fail to get his road credit. This is a so called "deficit" sale where the controlling factor is that payment must be made for the stumpage at the minimum basic rate.

New Treatment for Purchaser Credit

However, S. 364 seeks to treat the issue of "road credit" in a new way, which can be set forth by citing three types of situations. Assume a 10,000 MBF in Sale "A" with a road estimated to cost \$100,000. The purchaser builds the road but has not cut any timber. He has thus "earned" a \$100,000 road credit. He then wants to transfer this credit to Sale "X". He may do so but only to the extent of \$20,000. He is required to pay for sale "A" \$8.00/MBF or \$80,000 for the 10,000 MBF. In another situation such as Sale "B" he could transfer the \$100,000 road credit to Sale "X", but he would have no "unused" portion. As soon as he transferred it he would have to pay for Sale "B" cash in the

amount of \$150,000, representing the estimated value of the road plus the minimum basic rate for the stumpage.

In still another situation the purchaser may have constructed only \$90,000 worth of road and technically he has an unused credit of \$10,000. However, he is committed to construct the whole road. If he wants to stop work on this sale and move his unused credit over to another sale, he must put up cash on the first sale in the amount of \$10,000.

The governing situation seems to be the requirement that for the first sale the "cash payment for timber cut under a contract from which purchaser credits are transferred cannot be less than the sum of (1) any credits transferred, and (2) timber value at basic rates." Thus one effect of the proposed bill is to create an intricate system of book-keeping for the Forest Service. The effect is to provide an interest free loan that can be used up until timber is cut under the contract from which the purchaser credits are transferred.

In a regular road construction contract the contractor does not get paid until he performs by either doing work or delivering material to the site. On timber purchaser roads, the promise to do work would be sufficient to vest the "credit" with the characteristics of a loan. Doing the work would create the credit.

Also, the "unused" portion of a credit, created by the type of situation in a deficit worth sale controlled by base stumpage rate requirements, could permit the purchaser to receive the full estimated allowance. In order to take advantage of this opportunity a firm would have to acquire another sale on the same National Forest to which the transfer could be made.

Observations

The bill engrafts on an already complicated procedure statutory requirements that introduce new dimensions.

Now when the Forest Service sells a sale, all of the bidders have had an opportunity to examine it on the ground and to go over the appraisal. They make their bid knowing the estimates on just that, no more, no less. Recently in the Douglas fir region of the Pacific North West the average bid price for stumpage has been 250% above the appraisal price: Bid price \$127.57/MBF, Appraised price \$36.53/MBF. Road estimates in these appraisal were \$14.24/MBF. With this order of disagreement between appraiser and appraisee on stumpage values the road estimate element, which the bidders took into account in raising their cash offer 250%, shrinks as an issue.

S. 364 Analysis

S. 364 would require that the Sec. of Agriculture include in each Forest Service timber sale contract involving road construction a provision for purchaser credit earned by road construction but unused thereunder to be transferred to meet charges for stumpage held under other contracts on the same National Forest.

The language is possibly subject to various interpretations. Sec. 4 of the Act of Oct. 13, 1964 states:

Sec. 4. The Secretary is authorized to provide for the acquisition, construction, and maintenance of forest development roads within and near the national forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Secretary utilizing appropriated funds, (2) by requirements on purchasers of national forest timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided*, That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed the purchaser of the national forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Secretary is authorized to make such arrangements to this end as may be appropriate. (16 U.S.C. 535)

This bill would add its language to Sec. 4. The 1964 Act does not contain definitions. It simply broadly authorizes the construction of roads by reducing the price for timber using the language that is underlined above.

The terms "purchaser credit earned by road construction" and the term "unused thereunder" are not in the basic act nor are they defined in the proposed amendment.

... "Purchaser credit earned by road construction" page 1 lines 7 and 8.

A purchaser credit seemingly would be earned by road construction when the road had been constructed and officially accepted by the Forest Service. At that point the timber purchaser-road builder would have a credit as an offset against stumpage payments due on that contract. The wording of the bill would also seem to contemplate that a credit could be determined as "earned" based on construction of a portion of the road.

...There could be 2 general "but unused thereunder" situations were an earned credit page 1, line 8 could be "unused".

1. The road is partially or fully built and no timber has been cut, or insufficient timber has been cut under that contract to offset the estimated cost of the road constructed. This would be generally a short term period. As soon as timber harvest began on the sale the credit earned would begin to be depleted. When timber equal in value to the estimated cost of the road is harvested on that sale the earned credit would be used.

2. The road is fully built and timber is harvested. The estimated allowance has been earned but due to the minimum stumpage rate requirements less than 100% of the earned credit is applicable. The portion not offset by the basic rate payment requirement will never be usable on that contract.

If the bill intends to permit this unused portion of the estimated value of the constructed road to be used, regardless, the effect will be to reduce the price for the timber on that sale below the basic rate, or in the alternative to reduce the effective price on another sale.

If the intention of the bill is to treat the situation in ^{as if} above as a short term loan the question still exists as to whether it is also intended to include the "estimated" value earned but unused that would develop in situation 2. If the effect sought is the first one on a limited basis, the result of the legislation is to make the "earned road credit" the equivalent of a short-term interest free loan to be used on other sales.

The practical values are hard to assess. Since virtually all sales have extensive purchaser road building requirements of their own and since timber removal, except for minor right-of-way clearing does not commence until the road is built, each sale has its own "credit" that can be applied toward stumpage.

Assume sale No. 1 has an earned unused credit of \$100,000 and harvest operations are not to commence until 6 months after the road is complete. Assume sale No. 2 likewise has road requirements and harvest can not logically commence until its \$75,000 road is constructed. It would make little sense to transfer the "earned but unused" credit from Sale 1 to Sale 2 until the credit on sale 2 was used. Then as soon as operations began on Sale 1 the credit would have to be transferred back in order to maintain the financial integrity required for Sale 1.

However, in those few situations where timber is sold and no roads are required, the earned allowance on sale 1 or 2 could be used for such stumpage payments until operations began on them.

The bill, however, provides for certain limitations, and these are not clear as to intention.

The cash payment on sale 1 "cannot be less than the sum of (1) any such credits transferred, and (2) timber values at base rates." (Page 2, lines 2-4). This seems to suggest that the intent of the amendment is to operate as follows: On sale 1 assume the base rate requires payment of \$5.00/MBF for 10,000 B.F. or \$50,000, and the purchaser road credit transferred is \$100,000.

In situation (a) assume \$25,000 of the \$100,000 is unusable due to base rate requirements. The entire sum can then be moved to Sale 2 and used there. However, if this is done it creates a liability to make a cash payment later on Sale 1 of \$100,000, with the result that cash payments on sale 1 would be \$25,000 greater than they would be if the

credit had been transferred only in the amount of \$75,000. On the other hand if the intent of the words "earned but unused" is to exclude the \$25,000 "lost" due to the base rate requirement, then the bill does not treat that sort of situation.

There are several other aspects of the bill that deserve consideration. There is no provision as to when an "unused" portion expires. If the intent is not to treat the situation caused by the Base rate requirement, then, as drafted, these unused portions are permanent and can be applied forever. If these are not included then they would expire as timber was cut on a contract.

The Act would be applicable not only to contracts entered into after the bill is enacted but also to all then in effect. Generally, amendments of a nature that may affect contracts and the terms on which they were bid are made applicable only to future contracts rather than to existing contracts. A determination might want to be made with the Comptroller General as to the preferred method. In addition a determination may want to be made as to whether, if the bill were otherwise acceptable to the Executive, inclusion of existing contracts would lead to a veto for technical reasons.

At any given time the Forest Service has under contract and uncut about 2 1/2 years worth of timber at annual sale levels. This would total about 28 billion board feet on over 60,000 sales, exclusive of major long term contracts in Alaska. The Alaska long term sales cover about 20 billion board feet of timber.

Since the bill would apply to every sale involving road construction, and this term does not distinguish between roads that are temporary and roads that are permanent, it could encompass almost every sale. The bill, if enacted would direct that "the Secretary shall include in each Forest Service Sale contract involving road construction a provision for purchaser credit..." (Page 1, lines 5-7). Thus the bill, if enacted, would require going back to existing contracts to include such a provision as well as going forward on every contract with the same requirement. This could be ameliorated somewhat by eliminating sales under a certain sum or size, or by making it applicable only to sales with a certain amount of road construction and most certainly by restricting application to those contracts which had "purchaser credits" in them when entered into. By providing that the Act will apply to "contracts in effect on the date of enactment...", (page 2 lines 5-8) it becomes applicable to any contract with an "unused" road credit. If it is desirable to make it so apply, an alternative would be to apply it to "contracts in effect where construction has not commenced on the roads to which purchaser credit is applicable." However, as noted above the provision ~~that~~ would probably be more consistent with general practice *is* not to make the Act retroactive.

Additionally, there is no time limit on how long the "unused" credit may be effective and applied for transfer. At least, it would appear that the credit can and must be carried in the books until it is used. Since it only can be used applying it to another sale on the same National Forest, there is no way of forecasting when a particular company will secure another sale.

Further, the language is so broad it is possible that the credit would be transferable and assignable by a person selling a contract with an unused road credit or selling just the unused road credit. If it is not desired that the unused credit be assignable, this should be noted.

Relief Proposed by S. 364

Efforts to determine the applicability of S. 364 have been hampered by the absence of more than a guess at the coverage and effect of the bill. The Forest Service has not developed analytical data and applicability and breath of coverage. S. 364, however, is limited to application to other sales purchased on the same National Forest, (page 1 lines 9-10) although the rationale is not clear since, in some parts of the West the location of timber to the normal purchasing range of some companies, causes them to purchase timber on two or more Forests. The bill would probably be of benefit only to larger and regular purchasers of National Forest timber in contrast to smaller purchasers.

To the extent that it permitted a shifting of credits to apply in lieu of cash for stumpage payments, it would have its heaviest impact on Forest revenues in the first year. Thus it would diminish payments to counties of 25% of revenues as payments in lieu of taxes. The inclusion of all existing contracts would enlarge the first year impact on revenues and payments to counties.

Operation of the program would require a comprehensive bookkeeping system with records of unused credits, a credits transfer system, and

other measures and controls. Since some roads are "purchaser credit" types and others are not because they are temporary and associated with the logging operation, a strict differentiation would be necessary.

Relation of S. 364 to Broader Issues

Under the present system of timber sales the "costs" associated with timber removal and transportation are estimates based on the past and based on averages. The timber bidder is actually bidding on the stumpage and he is bidding for future use. There is a generally poor correlation between appraised price for stumpage and price bid. It is difficult to ascertain the extent to which anticipated future product values, the actual costs each bidder expects to remove the timber, differences in utilization plans, tax consequences, timber mixtures and bidding strategies figure into the bid actually entered and the price paid for timber. In all events the actual expenditures for roads have not been segregated

in a manner that would enable the Forest Service to know with certainty which part of the costs actually experienced are properly chargeable to the road and which represent costs of timber removal.

Over the past few years the road program has shifted so that instead of about 50% of the roads needed for the permanent system being constructed with appropriated funds and the work done by independent road contractors, only about 5% are now so constructed. In addition, the reliance on timber purchaser construction for over 95% of the roads has placed all of the emphasis on roads for timber removal rather than completion of the road network needed for multiple resource management,

including carefully planned harvest of commercial timber to secure maximum yields for future commercial stands.

The increasing requirement that roads needed on the National Forests be paid for out of the timber, using the device of reductions in the appraised price of the timber and the technique of requiring that the timber purchaser construct the road, poses substantial problems that S. 364 does not treat.

The basic position of the timber industry has been that the "estimated road cost" should be translated into an actual road cost and that, to the extent that actual costs exceed the estimate, this sum should be a "credit" applicable to payments for timber. The concept is a variant of "cost" plus contracting and would single out roads, from all of the "costs" in timber processing, for such treatment.

The Executive posture of not using directly authorized funds for Forest Road and Trail Construction, while relying on timber price reductions and timber purchaser construction, creates the problem. The road construction program has been moved outside the normal means by which roads are secured; separately financed and audited programs for road construction done by road building firms, with bids for the jobs in accordance with the normal manner of outlining costs for the specific job. In the timber situation, where part of the contract is to pay cash for a product with value and part of the contract is to pay with the services in the form of a road, these are serious problems in pricing and control. The "road cost" could be separated and a dual bid system used with the firms offering a high bid for the timber and a separate itemized below bid for the road (as is done in road contracts). However, under such

a plan one timber firm could enter a high bid for the road and a low bid for the timber, while another might offer a low bid for the road and a seemingly high bid for the timber. In the conversion of the estimated costs to actual costs, the successful bidder might well have offered less than the unsuccessful bidder and the result would be to complicate the entire process. This is the direction in which S. 364 heads.

A need exists to review the entire road program and to consider the extent to which the orderly harvest of National Forest timber, and the orderly movement toward securing the optimum level of multiple-use management and sustained yield of resources is aided or inhibited by the present policies and practices.

S. 364 seeks to enlarge on and convert administrative provisions to statutory requirements. In order to avoid adding undue complications or authorizing more than is intended, the bill, if enacted, needs greater specificity, the definition of terms, and a full explanation as to exactly how it would operate.

Finally, in this analysis only the simple timber sale has been used for analysis, not the escalation clause sale. The latter is more complicated to explain. An effort to credit road construction would add further complications in this type of sale since the escalation clause acts to limit stumpage increases and a full unused road credit could have added windfall type features if not carefully safeguarded.

Comptroller General's decision B. 175840, June 16, 1972, which bears on this issue is attached.

REW:ami

Mr. EVANS. As Commissioner Doerner pointed out, I would like to add a couple of comments as far as we are concerned. The main problem we are all faced with here today is the method of the back door financing for these National Forest Service roads.

The chart on page 10 of the background paper does highlight the drastic changes occurring in the last few years as we move to the purchase credit method for financing these roads. Also in that background paper we would like to call your attention to the problems described on pages 11 through 14 as a result of this type of financing. We believe that this committee and others should consider those problems.

Senator McCLURE. I might interrupt at that point to indicate that it is my hope and I think the intention of the committee to hold hearings later in regard to the road building programs generally on public lands.

We will take a much deeper look at the questions you have raised on pages 11-14 of the attachment. Thank you.

Mr. EVANS. I am glad to hear that.

As far as specific NACO position on S. 364, as Commissioner Doerner indicated, we appreciate your concern for the impact on counties. We are supportive of this committee's efforts to help the timber industry who we feel are also being financially penalized along with counties by the current financing methods.

Under certain conditions we believe counties would not object to a deferral of our share of purchase credits in order to stimulate the economy and help the timber companies. However, before making a specific endorsement we would like to see more of the financial impact data that your committee has today requested so that we can review this with our impacted counties.

We believe also, as Mr. Tollenaar will point out, that there are certain portions of S. 364 in its current language that need clarification and possibly some amendments.

I think with that it probably would be better to have Mr. Tollenaar indicate some of these areas that we think need clarification.

Senator McCLURE. Thank you very much.

STATEMENT OF KENNETH C. TOLLENAAR, DIRECTOR, BUREAU OF GOVERNMENTAL RESEARCH AND SERVICE, UNIVERSITY OF OREGON

Mr. TOLLENAAR. Mr. Chairman, members of the committee, my name is Ken Tollenaar. I am director, Bureau of Governmental Research and Service of the University of Oregon. I am appearing today as a consultant to the National Association of Counties and the Association of Oregon Counties.

Senate 364 would allow buyers of two or more timber sales in the same national forest to transfer unused purchaser credits from one sale to another, using the transferred credits in lieu of cash payments.

In general, the legislation would be to the advantage of timber purchasers and to the disadvantage, at least in the short run, of the Federal Treasury and county government, because of the delay if not absolute reduction in payments of some of the stumpage charges. Whether the net result will be in the public interest will depend largely on how the legislation is written to apply or not apply to different

kinds of situations, and perhaps to the tradeoff involving the timing of 25 percent payments which NACO has suggested. I might add parenthetically that the National Association of Counties, NACO, is suggesting a speed up, if possible, in the payment of the 25 percent charges, shared revenues to county governments which are now paid annually.

If these are to be paid monthly or quarterly, there would be some offsetting advantage to this legislation in the increased interest earnings which could be derived at the county level.

My testimony deals with some limitations which should be adopted to protect the public and the county interest, with some needed clarification of the language or intent of S. 364, and with the need for additional data necessary to evaluate the impact of this legislation.

DEFICIT SALE PROBLEM

One major concern of the counties is the application of S. 364 to deficit sales. Timber is sometimes sold at rates so low that allowing the full purchaser credit would reduce the purchaser's obligation to less than base rates.

Since this is apparently done after consultation with potential buyers, who by submitting their bids agree to build the specified roads even though the difference between the appraised or bid rate and base rate is insufficient to allow the full purchaser credit, it seems logical to prohibit transfer of any portion of such credits below the base rate. To allow such transfers would reduce Federal Treasury and county revenues absolutely, rather than merely delay them.

If this type of limitation is accepted in principle, either the legislation or the regulations which will implement it should clearly specify that it applies not only to sales which are offered initially on a deficit basis, but also to those which become deficit sales through operation of escalation clauses.

The legislation or regulations should also stipulate that transfer of credits would be allowed only to the extent that the base rate plus the transferred credit does not exceed the Forest Service's advertised rate.

If this limitation is not included, purchasers will be apt to bid up sales that otherwise would be deficit sales just to protect the transferability of purchaser road credits, and this will in turn reduce Federal and county receipts absolutely, rather than merely delay them.

RESTRICTION TO PURCHASER RELIEF

The purpose of S. 364, as stated in a memorandum by the National Forest Products Association dated April 24, 1975, "is to allow National Forest timber purchasers to more promptly be paid for the actual work they perform on Federal forest lands." If this is the purpose, the legislation or the regulations should contain some provisions to prevent the use of transferred road credits as a hedge against fluctuations or general speculation in the market price of wood products.

It would appear to be in the interest of the counties and the Federal Government to insure that purchaser credit transfers will be used only to the extent necessary to secure the stated objective.

Several types of constraints might be considered to effect this purpose. It might be clearly spelled out in the legislation or regulations that transfers would be permitted only between sales held by the same buyer, and that the earned credits could not be assigned to other buyers except as part of a transaction involving all of the original purchaser's interests in the sale. It might also be desirable to limit or perhaps prohibit transfers of credit among subsidiaries of the same parent company.

NEED TO CLARIFY INTENT OF THE LEGISLATION

The language of S. 364 is broad and general, and it may be necessary to clarify its intent. For example, the bill refers to "purchaser credit earned by road construction but unused thereunder," but does not define these terms.

Presumably, the purchaser credit will be earned only after the road is built and accepted by the Forest Service, and credit will not be transferable until that happens. Similarly, it will be unused only so long as it is not applied against stumpage charges and then only to the amount charged between base rates and the advertised rates, as suggested previously.

Other clarifications may be needed. It perhaps should be spelled out that transferable credit applies only for permanent, multipurpose roads and not for temporary roads which are figured as part of logging costs.

Since the purchaser credits are allowed not only for construction but also for maintenance, it should be carefully considered whether maintenance credits should be transferable along with construction credits.

Finally, in view of the statement on page 2 of the bill that "cash payment for timber cut under a contract from which purchaser credits are transferred cannot be less than the sum of (1) any such credits transferred, and (2) timber value at base rates," it should be clarified that in any event a purchaser must pay, in cash or credits, the amount he bid plus or minus the effect of escalation and other contract adjustments.

NEED FOR ADDITIONAL INFORMATION

It has proven quite difficult to analyze the impact of this bill upon county government in the absence of hard data and estimates that would indicate the amount of money involved.

To date, we have seen no data on the number of buyers holding two or more sales in the same National Forest, the number of sales held by each such buyer, the total amount of earned and unearned credits involved in these sales, or the amount of existing earned credits that would apply below base rates if deficit sale transfers are allowed.

It would also be helpful to have an estimate of the amount of credit that would actually be transferred if S. 364 is enacted, which presumably would be less than the amount eligible for transfer.

Senator McCLURE. Thank you.

Mr. Doerner, do you have any comparison of the counties receipts from O. & C. sales, as compared to the share from Forest Service sales? For example, in Douglas County?

Mr. DOERNER. Yes, I do. I can give you a general idea. In the last 10 years the receipts from O. & C. timberlands has tripled approximately. The National Forest receipts have approximately doubled. In other words, the O. & C. receipts have gone up higher in spite of the fact that the same buyers are buying the timber and they are making the same things out of it.

Senator McCLURE. Have increased Forest Service road standards been a factor in that difference in recoverable amounts to the counties?

Mr. DOERNER. I don't know that the standards would have the effect. But the trend, I am certain, of shifting to the timber purchaser construction of roads has a very definite effect upon it.

A few years ago about 50 percent of the roads were built with appropriated funds. This has decreased to practically 5 percent or so.

Senator McCLURE. Mr. Tollenaar, you raised a couple of questions that I would like to explore a little further. One is in regard to the deficit sale, on the first page of your statement, you indicate that apparently after consultation buyers are willing to buy on deficit sales, where the road costs are greater than the difference between the total sale and the base price.

Is it your intention to convey that they are given credits for road construction; that is, greater than the difference between total sale and base price?

Mr. TOLLENAAR. I think on the deficit sale situation, as I understand it, Senator, and I might add that the deficit sales are somewhat rare in western Oregon—

Senator McCLURE. I wish they were rare in north Idaho, but they are not.

Mr. TOLLENAAR. I don't think the implication here is that they are given credit for that difference. Rather the implication is reversed, that the purchaser under those conditions in fact has to absorb the extra cost.

Senator McCLURE. If he absorbs the extra cost, then it wouldn't be a transferable credit.

Mr. TOLLENAAR. This is the point that I think needs to be clarified. Apparently the proponents of the legislation are agreed that they do not intend this to operate that way.

Senator McCLURE. It would be that amount of road cost that was identified in the contract is all that would be transferable and that would be above the base price.

Mr. TOLLENAAR. I think above base price.

Senator McCLURE. As a matter of fact, if the road cost is greater than the difference and they still bid that in effect is a bid of a higher price.

Mr. TOLLENAAR. I do wish to reenforce, though, one point that is made on the second page, the first full paragraph at the top of the page of my testimony; that is, that if we are really going to exempt deficit sales from these transfers, that I think it would be important to stipulate that the transfer of credits be allowed only to the extent that the base price, base rate, plus a transfer credit, does not exceed the advertised rate, because you can conceive of situations in which the advertised rate was low enough that bidding that up to establish the actual rate for the sale would make purchaser credits which otherwise couldn't be transferred, transferable.

So something I think needs to be done to plug that, to carry out what is apparently the intent of the performance and certainly consistent with our hope, too.

Senator McCLURE. The second question I had was your comment about credits other than road building credits, maintenance costs. My understanding that the standard forest contract identifies those costs in the contract, but they are not recoverable costs in the same way that road building costs are. Is that not correct?

Mr. TOLLENAAR. I must admit to some confusion on that point because when the Forest Service supplies data to us on the extent of these credits, they always have separately identified purchaser credits for construction and purchaser credits for maintenance and the maintenance credits are rather substantial.

I gather that that is separate and apart from the log costs which are established as allowances under the contract. So that is why I think some attention needs to be given to that problem and some clarification.

Senator McCLURE. It certainly wouldn't be our intention that the maintenance costs be transferable. But I think the contract identified them separately so that there is no real problem involved in that any more than there would be in any of the other practices that are required as costs to the contract.

It is a point that we ought to bear in mind as we look to see whether the legislation really expresses what we intended it should.

Senator Domenici?

Senator DOMENICI. I have just a couple of more general questions. You have had the county platform introduced. Mr. Evans introduced it. I assume with your background you have looked into this bill and also have looked into the overall problem that we are discussing. Is that not correct?

Mr. TOLLENAAR. I have some familiarity with the overall problem. Yes, sir.

Senator DOMENICI. Their county platform seems to take the position that road construction within these areas by timber purchasers should be directed toward only those roads required for flexibility in the operation.

Forest access roads should be constructed and maintained to the appropriate standard for harvesting timber and for maximum utilization of other resources including these forest lands.

My question is that most of your concern this morning, as you testified on 364, has to do with changing from an existing situation to another one and how the counties might be affected in the interim.

But if we preserve the 25 percent that is to go to them and get over this hurdle of advanced funding and actually carrying the capital load for long periods of time that is under discussion, you would find no problem with the counties platform approach, would you, in terms of better fulfilling the roadway needs on forest lands than the present policy?

Mr. TOLLENAAR. I would certainly strongly endorse the counties platform which deals with this other issue that was discussed earlier about the proportion of these roads which are a financed or appropriated funds versus the portion which are financed through purchaser credits.

For many, many reasons, some of them having to do with the impact on the operators who are testifying in support of the bill, others having to do with the sound management of the forest research itself, it is far better to build permanent, multipurpose, multiuse roads out of regular obligations and handled in the normal procedure as any other highway construction project.

Senator DOMENICI. As a matter of fact, that amount increases the net to the counties from the 25 percent because there would be far less deducted from the total foresting contract by those who are buying the stumpage. Is that not correct?

Mr. TOLLENAAR. That is an incidental part of it and one which we are very interested in. Yes.

Mr. DOERNER. If I could add to that, in the early sixties, the National Association of Counties lobbied and Congress responded to much higher appropriation for forest roads and trails.

As you see by the chart, it never reached that. By administrative policy the objectives there have not been reached. Had they been reached, we wouldn't be here today, I am sure.

Senator DOMENICI. As a matter of fact, the maintenance of the existing approach doesn't necessarily assure better forest roads or even better roads by a county because from State to State there is great flexibility as to what they do with their 25 percent. Is that not correct?

Mr. DOERNER. That is true.

Senator DOMENICI. In fact, the law permits them to use that money for schools, roadways and a variety of things. We don't have before us anything indicating that it is directly related to the roadways in a county or more importantly roads of a general type on forest lands. Is that not correct?

Mr. DOERNER. That is correct.

Senator DOMENICI. I have no further questions, Mr. Chairman.

Senator McCLURE. First of all, I have been handed a note by the staff that the purchaser credit is not earned by maintenance. It may be that it is reflected in Forest Service figures that are reflected to the counties as impact road operations upon the 25 percent receipts to the counties because it would, if there is a cost of operation imposed on the sale, it would reduce the bid price on the timber.

So it would affect your 25 percent payment. But according to the staff at least it is not a credit to the purchaser. Therefore, it would not be affected by the language of this bill.

If you would like to look at it further and investigate further and communicate with us on that particular subject further, we would welcome that input.

We will also check to make certain that is correct.

Senator DOMENICI. Mr. Chairman, I must leave. I would like to ask the chairman who is the principal author of the bill about one other point raised. It has to do with whether or not in the exchange of this credit, whether or not we ought to be specific and not let subsidiaries and others that perhaps were not the prime contractor in the original sense take advantage of this credit.

I assume that as principal author of the bill you definitely had in mind that the company that made the outlay be the one that gets the credit and that it not be used by a new subsidiary to give them a competitive advantage in another area, did you not?

Senator McCLURE. It would be my contemplation that there was a legal identity of both contractors under both contracts, the one that generated the credits and the one that received the credits.

I wouldn't think that there is a variation except possibly as a legal successor to a reorganized company. I don't think you would want to tie it down too tightly that they couldn't benefit.

Senator DOMENICI. But so far as disposing of them or bartering with them, it certainly was not the intention of the legislation.

Senator McCLURE. That is correct.

Senator DOMENICI. It is clear to me. We ought to get it on the record that that wasn't your intention.

Senator McCLURE. That is correct.

Mr. DOERNER. Mr. Chairman, one other point that we did not have testimony on, looking at it from the industry standpoint, by forcing them to bear the burden of building many of these roads and financing them, we are asking them to take two risks. They are taking what the marketing of the timber, the end product is going to be, and we are taking another risk on what the inflation will do to the road system. The price of asphalt, it is very uncertain what it will be 3 years from now. It seems we would be spreading the risk if we could shift, back to true road contractors, bidding and building these roads keeping road construction to the people that they are most familiar with.

Senator McCLURE. I would agree with the statement that you have just made, Mr. Doerner. I am one of obviously less than a majority of the Senate and when I served in the House less than a majority in the House who tried very hard to keep the Forest Service in the business of paying for the roads that they were building, either through construction or by contract, which was the usual mode on anything except the very smallest of jobs.

We have not been able to persuade Congress to appropriate enough money. I suspect that the reason we are here today is that the Forest Service has been very resourceful. They have found a way of getting the job done when they couldn't get enough money out of the appropriation process. They did it by transferring those costs to the purchaser of the timber and to the counties that otherwise would have shared in a much larger fund than they now share.

As I mentioned earlier, it is my hope that the Public Works Committee will get into the hearings later this year in regard to the general problems of road building on the public lands of the United States, both the Forest Service and BLM.

That has been contemplated that that would be done in connection with the general oversight responsibility of the committee and also in connection with a possible revision in the general highway statutes of the United States.

There is some possibility, I guess, that the administration proposal for revision of the general highway legislation might be delayed late enough in the year that we wouldn't get around to it this year.

But it would be my very strong hope that if the general legislation is to be delayed, if we are talking about a change in the distribution formula out of the highway trust fund, matters of comprehensive nature such as that that might delay the consideration of the basic legislation, that we will still have the opportunity this year to go for-

ward with hearings concerning the Federal responsibility on public lands because I think we have rather gotten ourselves into this situation by inattention rather than attention to the problem.

I particularly appreciated your statement, Mr. Doerner, in regard to the general attitude of commissioners like yourself, located in communities where forest operations are such a matter of high priority to local government and your willingness to accept some of the burden of delay in receipts in the 25 years fund if that is necessary in order to get something done that will help the forest industries that provide the tax base and the paychecks for the people that live in your counties.

I am not at all surprised at that testimony. I anticipated it. I am very much pleased by it. Thank you.

Mr. DOERNER. Thank you for your comments, sir.

Senator McCLURE. Thank you.

A letter from the Hobin Lumber Co. and the Simonson Lumber Co. will be made a part of the record at this point.

[The letters referred to follow:]

HOBIN LUMBER CO.,
Philomath, Oreg., May 15, 1975.

Re Transferable road credits, S-364.

HOB. LLOYD M. BENTSEN,
Chairman, Subcommittee on Transportation of the Senate Public Works Committee, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR BENTSEN: We are a small independent sawmill located in Western Oregon employing approximately 100 employees with an annual payroll in excess of 1.3 million dollars plus the employment of contract loggers with a total number of employees and payroll of about one-half of the above. We depend upon the purchase of U.S. Forest Service timber for approximately seventy-five percent of our raw material.

The required construction of forest roads for the government runs into the hundreds of thousands of dollars per year. Due to weather and scheduling problems we sometimes have as high as \$300,000.00 invested in road construction prior to being able to remove timber from a particular sale in order to receive credit for the work already accomplished.

We heartily support the passage of S-364 concerning the transfer of established road credits between timber sales within the same national forest boundary.

A positive action by the Congress on this proposal would mean that we would: (1.) have to borrow less money to finance public forest roads, (2.) improve our cash flow considerably, (3.) be no added cost or expense to the government, (4.) beneficial to the employment of construction crews and related personnel and (5.) would be non-inflationary.

This program is workable and could easily be incorporated into the current accounting process of the individual national forest and its system of individual sales and buyer accounts. It would also provide a more even flow of construction and finished roads for log hauling and public use.

Thank you for this opportunity to comment on what we believe is a beneficial act for all concerned.

Sincerely,

THOMAS T. BURGESS,
Timber Manager

SIMONSON LUMBER CO.,
Smith River, Calif., May 15, 1975.

MEMBERS OF THE SUBCOMMITTEE ON TRANSPORTATION OF THE SENATE PUBLIC WORKS COMMITTEE,
Dirksen Senate Office Building, Washington, D.C.

GENTLEMEN: Simonson Lumber Company of Smith River, California wishes to inform you of our feelings that Senate Bill (S-364) will greatly help us in continuing to operate on timber purchased from the United States Forest Service.

This bill, if passed, will have the ultimate effect of allowing this company to reduce a cost, the cost of borrowing money, which at this time is a necessity.

All too often, over the last few years, the wood industry has experienced the passage of much legislation on the Local, State and Federal levels of government which has caused restrictions on the resource used in manufacturing wood products. Most of these restrictions have caused an increase in operating costs which have in turn been passed on to the consumer in the form of higher selling prices of the products. Senate Bill (S-364) is a bill that definitely will not cause an increase in the price of products produced and quite possibly will reduce operating costs enough to influence the final product.

Simonson Lumber Company considers the following advantages will be obtained if this bill is passed:

1. There appears to be no cost to the public.
2. Road construction be increased further ahead of harvesting of timber.
3. It will improve employment opportunities with this company because of increasing road construction program.
4. It will reduce our demand for borrowing money.
5. It will have a beneficial effect on our cash flow.
6. It is non-inflationary.

I respectfully request that this bill (S-364) be given strong consideration of acceptance by this committee.

Sincerely,

RICHARD COX,
Assistant Resource Manager.

Senator McCLURE. If there are no further witnesses, the meeting will be adjourned.

[Whereupon, at 1 p.m., the committee recessed, to reconvene subject to the call of the Chair.]

